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Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice
Estimates, Ministry of the Solicitor General

Third Session, 32nd Parliament
Wednesday, May 25, 1983

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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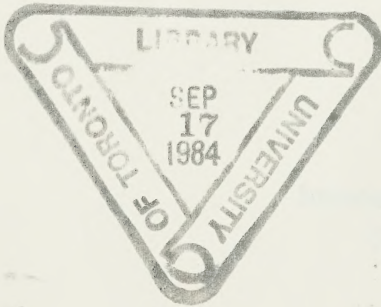
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, May 25, 1983

The committee met at 10:10 a.m. in room 151.

ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL

Mr. Chairman: I would call the meeting to order and ask all members to take their places. I would suggest that we set any ground rules you would like to set now with respect to questioning.

It has been my practice in the past to have the opening statement of the minister, a reply from the official opposition and the New Democratic Party and then go into questioning. If you wish to allocate the time for the votes, that is really the committee's prerogative. I am open to any suggestions you may have in that regard.

I might point out that I have not been in the habit of rotating parties for questioning, other than the initial questions on the first vote by the two critics. I am completely open, however. If committee members wish me to change that policy, instead of recognizing whomever I recognize first, and rotate the parties, I will be pleased to do so. Do I have any suggestions as to allocating times for the four votes under these estimates?

Mr. Renwick: I feel quite comfortable in your hands, Mr. Chairman.

Mr. Sicsieri: Let custom prevail, Mr. Chairman.

Mr. Chairman: Thank you. Without any further ado, I will turn the microphone over to Mr. Taylor for his opening remarks.

Hon. G. W. Taylor: Thank you very much, Mr. Chairman, ladies and gentlemen of the justice committee, my colleagues. I have with me this morning, as the chairman has said, my somewhat new—since January—Deputy Solicitor General Robert McLeod who, I might add, has a long history with the Ministry of the Attorney General. They support his background and knowledge very highly, and we are pleased to have him as our Deputy Solicitor General.

Also sitting with me is Peter Gow, the executive director of the administration division. You have a printed text, so I will not add lib further than the printed text and you can read along with me. I might go back to my soft-spoken style, depending on how my voice lasts.

With that, I will commence the printed text.

It has been a very busy time for the Ministry of the Solicitor General since the committee last met to consider our estimates. We have much to discuss, and I look forward to the contributions in the days ahead to be made by my colleagues who serve on the committee.

While operating within the confines of the restraint program, we have been able to progress with a number of important initiatives and others are under consideration. As we discuss them, I am sure committee members will have some creative suggestions to make.

At the outset, I would like to express my appreciation and pay tribute to a couple of men who have served this ministry—indeed this province—well and faithfully over the years. John David Hilton was the Deputy Solicitor General when we last considered these estimates. He has since been transferred to the Justice portfolio, and I believe he retires from active government service at the end of the month.

John has served the province since beginning with the Ministry of the Attorney General in 1948. He became Deputy Solicitor General in 1979 and was an invaluable help to me when I took over the portfolio in 1982. John has been a dedicated servant of our province. I know the committee members will join me in wishing him and his wife Betty brisk winds and clear weather as they sail their boat in the waters around Niagara-on-the-Lake this summer and for summers to come since John is a competent and avid yachtsman.

Peter Gow, seated at the table here with us, has been executive director of our administrative division since 1975 and a civil servant for 37 years. His job has been increasingly difficult in recent years as he attempted to keep our financial ship afloat and, at the same time, allow for the provision of the expected high level of service. He succeeded surpassingly well. I might add that he is going to be leaving the ministry to take up a new challenge with the United Nations, providing assistance to officials mostly in Third World countries. All of us wish him well in that endeavour.

I am sure most of the committee members

know the new Deputy Solicitor General, Mr. R. M. McLeod, who comes to us after serving ably the Ministry of the Attorney General. He joined that ministry as counsel in 1969. From 1977 until 1982 he was Assistant Deputy Attorney General and director of criminal law for the ministry. He has had considerable experience as a crown prosecutor, is a writer and lecturer on Canadian law and a key Ontario contributor to the Canadian Charter of Rights. We in the ministry are delighted to have a person of his stature guiding us as we face the challenges ahead.

The challenges in the fields of law enforcement and public safety continue to be formidable. The decade continues to grow more complex and the necessities of the economy dictate that we continue to operate in periods of severe constraint. Efficiency and productivity have been the key for us in this period and will continue to be so. For police officers, firefighters and others under the umbrella of the Solicitor General's ministry, it will continue to be so.

There is heartening evidence, as you will see later on, that those involved in this crucial field continue to increase productivity within the budgetary challenges of constraints. There is also heartening evidence that the vast majority of the citizens of this province continue to share a great confidence in those who serve us in the police and other public safety fields.

Indeed, over the past year there have been signs of increasing public involvement as more and more of our citizens come to realize how important the public is in public safety. All of us in the ministry are tremendously encouraged by this turn of events. The partnership between the police and the public and other professionals and the public must flourish and continue to grow if we are to succeed in this increasingly complex decade.

Everywhere in this province now we are seeing citizens banding together in Neighbourhood Watch and similar programs, looking for each other's property—pardon me, looking out for each other's property. I didn't realize all that property was lost that we were looking for.

Concerned parents, many of whom have lost relatives to the scourge, are joining in the fight against drinking and driving. Others are making submissions and spreading the word in regard to fire safety and emergency planning. We need that public support in areas overseen by the Ministry of the Solicitor General if we are to remain effective.

We have budgeted in this ministry for \$294,245,000 for this fiscal year. That is an

increase of about \$9.6 million or 3.3 per cent over 1982-83. The committee members can see that our budget is basically flat-lined. Of the \$9.6 million increase, all but \$750,000 is being used up by salary and employee benefits. Salary and employee benefits accounts comprise more than 75 per cent of the total ministry budget. Total budgets by program are: ministry administration, \$5,717,300; public safety, \$24,516,000; policing services, \$10,242,000; and Ontario Provincial Police, \$253,770,000.

Of course, the bulk of the funding from the Ministry of the Solicitor General goes towards maintaining the operations, management and support of the Ontario Provincial Police. Members know that the OPP is the fourth largest deployed force in North America, with 4,141 uniform and 1,135 civilian personnel. Early in 1982 a study was initiated into the organizational structure and functional alignment of the Ontario Provincial Police general headquarters. In the fall of 1982 the findings were reviewed and decisions were made on the changes to be effected.

An implementation plan was drafted which included the flattening of the organizational structure through the elimination of the assistant commissioner rank; a reduction in the executive complement; a realignment of certain functions and responsibilities; the renaming of divisions and many branches; the dissolution of certain branches; and the creation of new divisions, branches and positions and the rotation of some personnel.

The alterations were intended to improve efficiency and effectiveness throughout the force. On February 1, 1983, the reorganization was implemented by Commissioner James Erskine and is being monitored to assess whether or not additional revision is necessary.

There are currently 181 Ontario Provincial Police detachments plus five summer detachments throughout Ontario, from Kenora to Hawkesbury and Windsor to Long Sault. Policing services are provided to those areas—almost a million square kilometres—which do not maintain a municipal police force.

The force also polices provincial highways, county and township roads and the vast majority of the 174,000 square kilometres of Ontario waterways. In addition, the force provides policing services to 10 municipalities on a contract basis and frequently renders assistance to other police forces.

The Ontario Provincial Police's total budget for this fiscal year has been increased by three

per cent. Wages and benefits comprise approximately 78 per cent of the force's budget. The force handled almost 95,000 actual nontraffic criminal occurrences in 1982, an increase of almost two per cent over the previous year.

Crimes against persons increased by almost six per cent. Homicide offences increased by 28.6 per cent, from 35 in 1981 to 45 in 1982, the highest level in the last seven years. Crimes against property also increased by more than two per cent. More than 25,000 charges were laid involving drinking and driving and more than 410,000 charges were laid under provincial statutes.

Now for some encouraging news regarding accident figures. In 1982 the Ontario Provincial Police investigated a total of 69,577 highway accidents. While still a substantial figure, that total is down more than six per cent from 1981. While there were 616 fatal accidents resulting in the deaths of 728 people, these figures break down to a decrease of more than 18 per cent in fatal accidents. Personal injury accidents were down by more than seven per cent, which is an indication of effective enforcement.

10:20 a.m.

We will continue to work towards lowering the death rate on our highways, particularly as it relates towards drinking and driving. As I said previously, we are receiving increasingly active public support in this area. Commissioner Erskine, as chairman of the Ontario Traffic Safety Council, is actively involved in this field, and the Premier has set up an interministerial task force on drinking and driving, to which this ministry is contributing. All of us must strive to help reduce the carnage, the human suffering, which this problem creates for too many people in our society.

On another subject, there were nine industrial disputes that required Ontario Provincial Police attention during 1982. None was classified as major from the viewpoint of potential police involvement but they were monitored to ensure the preservation of the peace. Very few man-hours were expended as compared to 1981, when there were 15 strikes and 628 man-days were used in these operations.

This is further proof that police officers in this province do not improperly involve themselves in labour-management disputes. They are neither pro-management nor pro-labour. In the instances they are called upon, they are there to enforce the law and to ensure the safety of the public and the people involved. To suggest

otherwise is to discredit the police officers of Ontario.

Regarding the Securicor situation, I can say that the findings of the Ontario Labour Relations Board are being reviewed by officials in the ministry and the licensing branch of the OPP. Officers of the criminal investigation branch of the Ontario Provincial Police are continuing their investigation, and I believe it would be inappropriate for me to comment further at this time.

Last year I apprised the committee of the summer student anti-vandalism project undertaken by the force in Gravenhurst, and I am pleased to inform the committee that the project was an outstanding success. The project, under the supervision of provincial Constable Ray Harrington, resulted in a 34 per cent decrease of occurrences of this type. This year seven similar projects will be operating in Gravenhurst, Belle River, London district, Snelgrove, Huntsville, Shelburne and the district of Kenora.

There are many other initiatives being taken by the force this fiscal year. The Young Offenders Act, which is scheduled for implementation in 1983, will necessitate an extensive training program prior to implementation.

A Canada Safety Council defensive driving course will be delivered to all force members this year. In addition, police recruits from around the province will participate in the police driver training course at the Ontario Police College.

During 1982 all operational police force members were provided with soft body armour vests. This year the OPP will phase in new security holsters available now as a result of the changes made under regulations to the Police Act. The features of the new safety holster were demonstrated to this committee last year and to other members of the Legislature through demonstrations arranged for the caucuses. To date, almost 50 per cent of the forces have switched or will be switching to the new holsters.

I should now like to bring committee members up to date on Project P for pornography, which is a joint forces operation between the OPP and the Metropolitan Toronto Police Force. During 1982 Project P officers were involved in 46 investigations, in addition to providing advice to many other officers throughout the province. Fifty-five obscenity-related charges were laid and obscene material valued at more than \$74,000 was seized. Much of this material was videotapes.

During the first four months of 1983 the problem has worsened. Between January 1 and May 1, 1983, officers seized more than 1,000 videotapes from video stores and distributors valued at \$130,000. More than 90 charges have been laid following these seizures.

We are not talking about censorship, but enforcement of the Criminal Code. The investigating officers believe these movies are not only pornographic but also obscene within the meaning of the Criminal Code. Moreover, they were being made available to children. In addition, they were not subject to review by the Ontario Censor Board because they were not being distributed for public viewing. Of great concern as well is the fact that in some instances retail distributors were falsely representing to the public a claim that the movies had been approved by the censor board or even by the police.

I would elicit the committee members' support in cautioning parents in this area. I am working with my colleagues, the Attorney General (Mr. McMurtry) and the Minister of Consumer and Commercial Relations (Mr. Elgie), on a number of initiatives that may be appropriate to tackle this problem and I would welcome the committee members' views on steps which can be considered to correct the situation.

Over the past year the Ontario Police Commission has also been busy in many areas. The inspectorate branch has been reorganized and the police college's administration has undergone a thorough review. To assist Mr. Shaun MacGrath, the chairman of the commission, two new members have been appointed. Last August John MacBeth, a former Solicitor General of Ontario, was appointed a full-time member and vice-chairman. In the same month Dr. Reva Gerstein was appointed a part-time member. Their expertise has already proved to be invaluable in the day-to-day operation of the commission.

Earlier in my remarks I alluded to the importance of the public in maintaining a high level of service in police activities. This, of course, is especially important in crime prevention. The Ontario Police Commission is taking a major initiative in this area and a full-time crime prevention bureau has been established within the commission.

This bureau will assist the province's 127 municipal police forces to initiate and develop effective crime prevention programs and then serve as a monitoring agency to assess their effectiveness. A member of the inspectorate branch will co-ordinate the program, while the

day-to-day operation will be carried out by an experienced municipal staff sergeant, seconded to the commission for that purpose.

Since last year's estimates the OPC appointed a resident inspector for northern Ontario to look after the 21 municipal forces there. This has been a tremendous success and, in addition to doing an annual review of all the forces in the area, the incumbent is kept very busy working with the chiefs of police and local governing authorities in providing regular liaison with the police service in the far north.

Following reorganization, the inspectorate branch of the commission has had a most productive year. All 127 municipal and regional forces were inspected. Where necessary, recommendations were made for corrective measures to be taken. Follow-up visits indicate the reports have been well received by the local chiefs and governing authorities. The ongoing inspections and follow-up visits are essential to ensure that the quality of police service in all parts of the province is upgraded and maintained.

The OPC has also been involved in the province's highway traffic safety programs in 1982. Committee members might be particularly interested in the results regarding the 12-hour licence suspension program for drivers in respect of whom the evidence does not justify prosecution for impaired driving or the over 0.08 offence under the Criminal Code, but are shown to have more than 50 milligrams of alcohol in 100 millilitres of blood. The program was monitored for effectiveness and approximately 15,000 licences were temporarily suspended in 1982. This program resulted in almost no complaints from the public, including those who had cars towed away for safe keeping.

Another area of concern to the commission and to the ministry is that of domestic violence. Indeed, we have already responded to some of the timely recommendations made in the standing committee on social development's report on wife battering.

As far as priorities are concerned, we felt it was important to advise police that this ministry supports the view that they should lay charges whenever reasonable and probable grounds exist, rather than leaving it up to the complainant. This was done by Mr. MacGrath and myself in a memorandum to all chiefs of police last November. In addition, the Ontario Police College manual, Family Crisis Intervention, has been revised in accordance with the committee's recommendation so that domestic violence is identified as a criminal activity.

The course content of family crisis intervention has also been changed to accurately reflect the committee's recommendations. This applies to both recruit and veteran officer training courses. Students at the college are advised to lay charges whenever possible. They are apprised of the social and legal services available to the victims and the civil and criminal remedies are discussed.

There is no denying the fact that police have been generally reluctant to swear to informations because, for various reasons, the complainants frequently do not wish to proceed to trial. After my most recent memorandum to police chiefs requesting a tougher stance in cases of domestic violence, I received a memorandum from a police chief in southern Ontario. He conducted a two-month study of charges laid by members of his force in cases involving domestic violence. The number of cases disposed of in unified family court totalled 65. Of those, 40 charges were withdrawn. He wrote, "It is clear that 62 per cent of the charges laid by police were withdrawn, mostly at the request of the afflicted spouse."

10:30 a.m.

All of us are aware of the magnitude of this problem and all of us, inside and outside government, must continue to search for solutions if we are to effectively combat this plague in our society. We will continue to encourage the police to lay charges, even though they cannot always expect the co-operation of the victim.

I am also pleased to advise the committee that the Ontario Police College and the London city police force are co-hosting a conference on family crisis intervention this coming October. The recommendations of the standing committee will be the focal point of the conference. Representatives at the conference will include social service workers, senior police officers, police governing authorities and members of the medical profession. Members of this committee are also invited to attend.

Turning to another area of responsibility, the emergency planning office, under co-ordinator Ken Reeves, this office has also had a very busy year. Our program of assistance and active participation in emergency planning at the municipal level continues to grow. Last year we received \$332,000 in federal funds for emergency planning activities and training, which was distributed to 22 separate municipalities. This year we anticipate receiving more than 200 applications from emergency planners, representing municipal, public and private agencies,

who wish to attend emergency training courses. Arrangements will be co-ordinated by the municipal planning offices.

A major initiative started in the last fiscal year and which continues this year is the development of a revised plan for dealing with nuclear emergencies in Ontario. By March 1984 it is hoped to have in place a comprehensive provincial nuclear emergency plan covering all nuclear reactors in the province.

Also in this area, I am hoping the Legislature will have a chance shortly to review our new legislation, An Act to provide for the Formulation and Implementation of Emergency Plans. The proposals in this bill respond to municipal requests for legislation that reflects and supports their role in planning for and responding to emergency situations. It represents a legislative foundation upon which emergency planning and response can be based.

The bill also provides for the involvement of senior levels of government, depending on the nature and extent of the emergency. It spells out the interrelationship with municipal planning and, where the province becomes involved in the emergency, the bill ensures a co-ordinated response from both levels of government.

Turning now to our public safety programs, under the direction of Frank Wilson, the assistant deputy minister, we have again been able to undertake new initiatives with budgetary constraints.

In the Centre of Forensic Sciences, the overall case load decreased by about three per cent in the last fiscal year. This is primarily as a result of restrictions placed on certain types of cases, restrictions designed to reduce the number of cases of a lesser nature in order that more prompt service can be provided in more serious cases. Despite this initiative, the backlog of cases at any given time continues to vary between 900 and 1,100, which causes delays in the reporting of some cases.

The centre does assign priorities to cases in order to provide immediate investigative information to various investigators and in order to meet court dates. The centre is continuing to stay abreast of developments in the field of forensic sciences and to make contributions, particularly with respect to blood group information and the role of cannabis in traffic fatalities.

Staff of the centre have contributed substantially over the past two years to the investigation of the deaths of infants at the Hospital for Sick Children involving the drug

digoxin. While the major part of this work was completed in 1982, the centre does continue its interest in this area. It continues to contribute to the development of information which may assist in the interpretation of the data developed in such investigations.

Once again, in the past year the value of the office of the chief coroner has been amply demonstrated. Again, the coroners of the province continued with their objectives of investigating all sudden and unnatural deaths and, in conjunction with related activities, to use the knowledge gained to promote health and safety for our citizens.

Ontario's coroners conducted almost 27,000 investigations in 1982. There were 258 inquests with corresponding verdicts received. Again, more than half the recommendations made by coroners' juries have already been implemented, which is consistent with the average. Over half the recommendations down through the years find their way into law or regulations in one form or another.

The office is continuing its program to better inform the public of the need for various organs and tissues. Programs have been developed to alert the police, paramedics, nurses and doctors to look for a signed donor card when sudden death occurs. The number of eyes donated last year was more than 1,000, which is an increase over the average of the previous four years. Kidney donations were 238, a five-year high, and pituitary glands donated were 6,107, down slightly from 1982.

The suicide rate in the province was up slightly—1,282 compared to 1,273 in 1981. The chief coroner, Dr. Ross Bennett, and his staff, are continuing their assistance to suicide prevention specialists and the distress centres.

As members of this committee are aware, personnel from the office of the fire marshal investigate fatal fires, large loss fires—over \$500,000—and fires where arson is suspected. In 1982 more than 1,700 such investigations were conducted—approximately the same total as in 1981. The incidence of arson was actually nine per cent lower than that of 1981 and represents the second successive year in which arson has declined in Ontario.

This encouraging trend reflects the efforts of the fire marshal's office to upgrade its team approach to fire investigations through training programs. These are directed towards police and fire department officials, the insurance industry and crown attorneys. The motives for arson fires were consistent with those of previ-

ous years. Roughly half were the result of mischief or vandalism, 13 per cent were fraud, and less than one per cent the work of paid arsonists.

We hope and expect that our efforts along with the increased public awareness of arson will work to sustain this encouraging reduction in this potentially lethal crime.

Regarding the Ontario fire code, members will recall that it came into force in November 1981. It specifies standards of safety for existing buildings and provides an effective complement to the Ontario Building Code Act in ensuring uniformity of standards across the province.

Part IX of the fire code was not put in force when the code itself was brought in. This part was set aside for retrofit requirements and involves the most complex and controversial requirements in the code. The fire marshal felt it was essential to have the fullest input from all concerned organizations and individuals. Two sections of part IX—dealing with lodging houses and assembly occupancies—have recently come into force and the work is proceeding on the other sections. The preparation of part IX, as with other parts of the code, has been possible through the committees representing interests in the public and private sectors.

Also regarding fire safety, the new hotel fire safety program is heavily committed to education and training for hotel management and staff. Audio-visual aids have been produced to assist our hotel fire safety inspectors in the training of hotel staff on fire safety. Fire safety seminars have been conducted throughout the province for hotel management as well as a three-day course on high-rise fire safety for hotel staff specialists.

To date, the uniformed inspectors have completed almost 3,000 routine and follow-up inspections. In addition, the staff fulfilled almost 2,000 requests for advisory, consulting, training and licence services.

Still with the area of fire safety, the matter of a public inquiry into high-rise fire safety was raised a year ago by this committee, specifically by the member for Riverdale (Mr. Renwick). County Court Judge John Webber was chosen to conduct a public inquiry into fire safety in high-rise buildings and the inquiry commenced last September. As of this month, 75 witnesses have appeared to give evidence on 61 hearing days. Approximately 300 exhibits and 90 briefs have been tabled. Judge Webber anticipates completion of his report later this year.

I might add that all of these start us thinking

the task may be completed earlier than usual. But the response has been overwhelming from exceptional groups in the industrial area, the public area, hotel people and private individuals. You can see by the number of witnesses and people concerned with this—and I have heard comment from professional firefighters and chiefs—that Judge Webber is doing a thorough scrutiny of the material that is coming before him. I compliment the member for Riverdale on his suggestions on this. I think when he sees Judge Webber's report it will give him some new insight into that very particular problem.

10:40 a.m.

Another initiative of the public safety division was the commencement of work on a new residence for the Ontario Fire College at Gravenhurst. This will provide accommodation for 100 students, rather than the capacity of 46 offered by the present facilities. We are looking forward to having the capability of reducing the backlog of requests for entry to the college and, at the same time, providing a greater variety of range of educational programs to the fire service.

We are also now into our second year of operating the provincial auto extrication program. An allocation of \$250,000 is available this year to fund county, district and regional programs and provide special grants, where warranted, to municipalities.

To ensure that the highest level of skill and technical expertise is fostered throughout the fire service, an intensive 40-hour course has been developed by the fire marshal's office. Fifty-six of these courses have been held to date and another 17 are scheduled in the coming months.

It is tremendously encouraging to be involved with the fire service in this program and to see the wholehearted support it is receiving from all parts of the province. They recognize, as we do, the potential for saving lives and reducing injuries.

Last March the regulation respecting protective equipment for firefighters made under the Occupational Health and Safety Act was passed. This proclaimed a code for the head protection of the firefighters. This regulation requires that, effective June 1, all helmets purchased for use by firefighters must meet the specifications of the code and, effective January 1, 1986, all helmets worn by firefighters must meet the specifications of the code.

The committee responsible for the development of this regulation is continuing to study

and develop further regulations which will cover all firefighters' clothing and equipment. Members of the committee include representatives from the occupational health and safety branch of the Ministry of Labour, the office of the fire marshal, the Ontario Association of Fire Chiefs and the Ontario Professional Fire Fighters Association. The new helmet being phased in was given extensive testing and the same care is being taken with the other equipment.

I might add that I have watched the committee work and I have seen the results with the headgear. I think all committee members can be thoroughly pleased with the intensive and extensive work that has gone into choosing the ultimate helmet. The ultimate regard is for the safety of the firefighter and the user of that helmet over all other considerations. I think one can be pleased with the total co-operation of all those groups that are there to bring about the best equipment for firefighters.

In relation to fire loss statistics, there were 179 deaths from fire in Ontario last year, compared to 227 in 1981. The number of fires was down as well and the dollar loss was reduced by some \$9 million over 1981.

It is hoped that the efforts of our ministry will encourage a continuation of this trend, but because fire is such an unpredictable phenomenon, it would be a mistake to become too complacent. However, it is not unreasonable to conclude that these reductions, along with the reductions in arson incidents, have to some degree been the result of our fire safety programs. These include the fire code, fire training and fire investigations as well as an increased public awareness of the real dangers of fire.

Finally, there is the matter of the report done by Price Waterhouse Associates into the organization, management and financial aspects of the Ontario Humane Society. The report followed an assessment by staff from the ministry into the operations of the society. Members will recall that the assessment was instituted following a number of public statements made about the society through the media, through letters to the ministry or through contact with members of the Legislature.

The report by Price Waterhouse was welcomed by the society and members of the public and a committee has been struck to study and implement recommendations. Appointed to head the working group is Lorne Maeck, former Minister of Revenue and a distinguished former member of this Legislature.

That concludes my opening remarks, Mr. Chairman. I hope the committee members find them useful and I now look forward to the members' contributions to our discussions.

Mr. Spensieri: Mr. Chairman, as is our custom, I will simply limit myself to a few preliminary remarks relating directly to the minister's statement and then make a couple of comments on areas of general policy concern before getting down to specific areas which may come up as each item requires to be voted on. The minister and his staff may choose to reply or not reply to those items as each vote comes up or seriatim as I raise them.

Before getting to that, I wish to thank both the minister and his staff for their ongoing co-operation during the past year. I found, particularly, Mr. Hilton and Mr. Ritchie very open in their approach to critics and to constituency involvement. I thank them and look forward to the same relationship with the new people coming on board.

In the first part of the minister's statement, he waxes almost lyrical about the public sector co-operation. I agree with the minister that it is a very desirable phenomenon. We are seeing this same type of volunteerism springing up in other areas of ministry involvement, such as Correctional Services. I just wish there would not be too much hand-wringing.

It seems to me that the reason for things like the Neighbourhood Watch and perhaps less desirable things like the Guardian Angels or the tremendous growth in private guards on the part of commercial enterprises may come more out of a sense of desperation than a sense of participation. There is a growing awareness out there, which I think should be dealt with at some point, that 31,000 private police represent more than twice the official police force in Ontario.

People don't like to spend money on security unless they have to. There is a real danger that while we may be talking about the wonderful co-operation between the public sector and private concerns in the area of policing, we may just be faced with a situation where, really, that comes about, as I said, because of a perception out there that the police are either too few or too busy to handle specific areas.

The point of pornography was also dealt with by the minister, and as it is not specifically referred to in my subsequent notes, I will deal with it now. It seems to me that the real thrust of the ministry and of the police force over which it has a surveillance role is not so much the

activity in investigation and prosecution. As the minister well knows, especially with these cassettes, with a five-second snip of the cassette it is a brand new ball game. You have to bring the matter on for prosecution again, and you cannot use previous convictions even though it may be the same movie or the same subject matter.

It seems to me that a more constructive approach would be to have the Solicitor General get involved directly with his federal counterpart and perhaps the Minister of Justice federally and bring amendments to both the Criminal Code and to the Ontario Censor Board legislation so that we wouldn't have the need to prosecute each individual amended version of a cassette which has often been stolen and illegally copied. Even the press release put out by one of your staff people, I believe by Mr. Dickie, seems to indicate an increased level of surveillance and an increased area of prosecutorial investigation. While it is encouraging, it seems to me that you are really barking up the wrong tree when you simply step up seizure and individual prosecutions, because you are fighting a losing game.

10:50 a.m.

Turning to the more general areas of policy, I was concerned that the minister's speech does not indicate in any way, although perhaps later on this will come about, how the Ministry of the Solicitor General is going to interact with three major pieces of proposed and ongoing federal legislation.

I am referring, firstly, to the civilian security force proposal. I am wondering whether the Solicitor General has given any thought through his officials as to how the police forces will interact with this new civilian force; whether he has had any ongoing input into the creation of the proposal; whether his attitude is the same as that of his sometimes alter ego, the Attorney General (Mr. McMurtry); or whether it is a question of a muted alarm or concern. Really, what is the Solicitor General's position on such an important bill, which will have the police forces under the Solicitor General's jurisdiction directly and, I would say, intimately involved?

The issue of the young offender was barely referred to in the minister's presentation. It seems to me that deserves a much closer scrutiny by the Solicitor General. We know the age has now been changed from seven to 12 up to a maximum of 18 years of age. It will impose a tremendous burden on the law enforcement people in this province, both from the stand-

point of apprehension and police investigation and from the standpoint of detention and later handling.

There is some talk that the lead ministry, so to speak, will be the Ministry of Correctional Services. The specific questions and concerns I would like to raise with the minister and his officials are whether a more appropriate lead ministry concept would not lie with the Solicitor General's office and, specifically, what new methods are being studied with a hope of eventual implementation, so that the coming into force and the actual working of the act would be greatly facilitated. It seems to me that a higher profile negotiating stance is required by the Solicitor General here in dealing with his federal counterparts in this very crucial area of the youthful offender.

Speaking once again in the general policy area, it seems to me as well that the Solicitor General is amazingly silent on the question of how the provincial forces will tie in with the federal Charter of Rights. Specifically, now that we have seen the extravagant claims of Judge Maurice Charles disposed of, such as saying that fingerprinting was against the Charter of Rights, do we not face a danger that the police forces under your jurisdiction may take the view that it is all a bunch of hogwash in any event and perhaps throw out the baby with the bathwater?

In other words, on areas of search and seizure and the right to counsel, what specific training and advice has been given to the province's police forces in implementing those safeguards which are desired to be introduced by this piece of federal legislation?

This brings me to a final point in the general policy area, the question of the policy secretariats and, in particular, the Provincial Secretariat for Justice, which has a co-ordinating role over this ministry. It seems to me that in dealing with these larger policy issues, such as the Young Offenders Act, the Charter of Rights, the security force and so on, the Provincial Secretary for Justice (Mr. Sterling) ought to really be what was intended—in other words, a sort of superminister—so that he could deal with the federal level of government in these areas of joint jurisdiction or at least joint co-operation.

That has not happened, as we have seen from various press clippings. Some refer to the superministers as minions. I will not go that far, but if the secretariat is not handling the co-ordinative role in the way in which it was intended that a superministry would act then it behooves the Solicitor General, in his areas of

specific involvement and specific concern, to be a little bit more forward, high profile and more combative if necessary in dealing with it.

Last year I expressed my hope that the minister would proceed to assume his rightful place in the power structure arising out of Ontario cabinet allocations. I must say that my concerns expressed last year continue to be concerns in both the trust companies affair and the situation in the Hospital for Sick Children. We have seen a reluctance to assume pre-eminence, a reluctance to be the lead ministry.

These are all, I submit, areas where policing and the normal jurisdiction of the Solicitor General is very much involved. Yet we see a kind of an attitude of "Let the Attorney General do it, because it is more up his alley in any event." That has to be a major concern in the administration of justice, because the reason for the divorcing of the two ministries was simply to avoid the perception or the possibility of conflict, to allow the chief police officer of the province, divorced from the chief crown officer, to do his bit, to do the investigations as early as possible, to send a coroner in as quickly as possible, to carry out those police functions which need to be carried out expeditiously, unhampered by considerations more properly within the Attorney General's field. It seems to me, with all due respect, that we are still a long way from there.

I will turn now to specific areas of concern and I would hope once again that the minister will respond to these as he wishes when the appropriate vote item comes up.

I am disturbed, as I think most members of this committee should be, about the problem we have been having with holding-cell detainees. Sometimes, after the initial arrest, we have seen a number of suicides, starting with the David Baxter situation here and, in other parts of Ontario, William Michael Dick, Steve Dionne and various other individuals, to mention only three examples of suicides in jail cells shortly after apprehension and definitely before trial. We are not talking about detainees in the correctional context.

I am wondering whether the Solicitor General, through his people, will address himself as to whether the police manual is sufficient to instruct police officers on how to conduct themselves in these types of situations. Is there a code of conduct and ethics which is spelled out to deal with this matter and, if not, will he introduce some kind of a study or some proposals for

safeguards so that we do not face the situation of deaths in jail cells?

Many years ago I had the misfortune of being remotely related to a recent immigrant who arrived in this country and was detained on some presumption of shoplifting. She killed herself because she could not bear the thought of even coming into contact with the police. It is very much of a concern in Metro areas that people who are not customarily involved with the policing process may find the whole jail experience, even a temporary detention, enough to trigger suicide. I think it is a very critical area.

The Solicitor General last year opened by saying, "It is heartening to me that all indications are that the vast majority of citizens of this province continue to have great confidence in our police officers and our firefighters." I would not really presume to dispute that statement and I certainly would not want to fall into the trap, as was outlined in the speech, of being considered to be anti-police. However, it seems to me when you talk about confidence and our pious hope that this confidence will continue, we have to be concerned about those incidents and those activities entirely within the field of policing which could lead to a breakdown of that confidence. I will just bring out a few examples to indicate that.

11 a.m.

We had the incident of what has been called the one-sided notebook. We see Judge Locke in one of his recent opinions, along with Harold Levy, editor of the Criminal Lawyers Association, state in most cases the notebook used by the police is highly selective. "It contains ritualistic formulae which have worked in other cases to obtain convictions and constitute crude violations of the obligations on police officers to investigate in an impartial way."

If that indeed is a pervasive practice, if the police officer, whether he be of the Ontario Provincial Police or regional or metropolitan force, does take the view that conviction comes first and that exculpatory statements need not be put into the notes, if he takes the view that a given formula will produce the result and will achieve the departmental policy which has been set, I submit that brings us to an erosion in the confidence which we all want and which we all strive for. It seems to me that there should be some investigation of this particular statement by His Honour Judge Locke and by other noted defence people active in the criminal bar to see if it is a justified conclusion to draw.

We have had other incidents which seem to

indicate some wrongdoing which ought to be dealt with. They should not simply be buried under the mantle of authority. In the Morrish Road case, the investigation where some alleged bashing took place at a party, it seems to me that, once again, the police and officialdom ought to be big enough to admit that perhaps some excess of force took place or that some apologies are in order. I can sympathize with Chief Ackroyd when he says that he is not going to apologize if there are civil cases pending. It seems to me that the whole concept of confidence is very much impaired by activities, and perhaps illegal activities, such as this.

We have had evidence brought to us, through the press and through our own involvement, of alleged perjury by police officers, so far as to prompt the Attorney General to say, according to a headline, "McMurtry Plans to Get Tough with Police Who Lie in Court." That is from the Ottawa Citizen of October 23, 1982. It seems as if there is a perception and a growing awareness in the criminal bar that there will be some distortion of truth, some perjury, some element of planting of evidence to achieve a conviction and to carry out departmental policy. It seems to me that you, as the chief responsible for policing, ought to be very much aware of those possibilities.

In our own Metro area we see other incidents or other tendencies which would seem to work against your wishes that confidence continue. In my own area, for instance, under the guise of visible policing and under the guise of following through on the recommendations of the Hickling-Johnston study, the \$400,000 white elephant, we have seen police activity which is questionable and which I do not think leads to increased confidence.

The stop and chat is fine and the foot patrol who gets to know his community is also fine, but wholesale investigations, interrogations and so on of more than 150 people predominantly black in complexion over the course of a few days seems to indicate that it is going beyond a confidence-building process. I realize that the Solicitor General will say that this is really a matter within the purview of the police commission for Metropolitan Toronto, but it seems to me that it ought to elicit his interest and his concern in so far as it is part of the confidence-eroding process.

The other area that I think is open to some attack and concern is the whole treatment of the victim by the police. It seems to me that we are moving into an era when the victim really is

becoming more and more irrelevant in the process. The Solicitor General referred to the fact that in the battered wives situations, the wives will often withdraw the charges. That leaves the police to conclude that perhaps it is not a very fertile field to deploy scarce resources.

It seems to me we have the same sort of situation for the victim in general. We do not give the police sufficient wherewithal to be useful to the victim; to show the victim what recourses are open, what counselling is available or what applications can be made, such as the Criminal Injuries Compensation Board. The victim has to be informed of how he can be part of the process. Speaking of the Criminal Injuries Compensation Board, it may be time to re-examine that as well and to see whether it is doing its job.

The Solicitor General ought to be looking at ways in which victims of violence and victims in general, can be viewed within the larger process of policing. I need only refer to organizations that have sprung up, such as Victims of Violence and others, which are indicative of this feeling that the victim is not getting enough of our spending in the policing field.

Another area of concern I would like to raise now is a slightly parochial matter, but it was raised by Mr. Ruston from our caucus. It is the whole issue of the student list which was published by Chief Bruce Cowan in which he indicates that certain students were suspected drug users and ought to be dealt with accordingly. I believe the Solicitor General has yet to state how he views that conduct by a police chief and what punitive or investigative processes he will be subjected to.

I was pleased, as is the Solicitor General, to hear of the statistics involving drunk driving and of the continued involvement of Inspector Erskine in the joint committee on driving. Perhaps the Solicitor General would now like to comment on whether in addition to the suspension, he would favour the recommendations of the recent coroner's inquiry involving young drivers wherein it was advised that 0.05 per cent blood alcohol ought to be made the legal point of impairment for drivers under 18.

The Solicitor General has taken a very strong stance in the area of drunken driving with tougher penalties urged for drunk drivers. "It is time the courts took a tougher stance with drunk drivers," Ontario Solicitor General George Taylor says. That was in the *Toronto Star* on December 7, 1982. I would hope that this becomes as much of a pre-eminent role as is

being indicated to us in words. I guess we all look forward to continuing legislative improvements in that area.

Turning to the question of fire safety which was raised by the Solicitor General, I agree with him that sometimes reports, such as that by Judge Webber, take longer than expected. There were expectations that he would report within a month of his appointment. I think he even indicated that himself.

11:10 a.m.

It seems to me that legislation having to do with high-rise hotels and other public places ought not to be dependent on the findings of one judge, one commissioner or one person. This is especially true in the area of the retrofit legislation for things such as senior citizens' homes or places of assembly. We should be proceeding much more expeditiously.

There was some mention made by the Solicitor General on the question of security guard firms and particularly their role in labour relations. I am somewhat concerned that the Solicitor General first chose to be silent because the Ontario Labour Relations Board had not ruled on the particular involvement of the Securicor people. Now he chooses to be silent because it is under internal investigation by the licensing people, the Ontario Provincial Police.

It is a genuine area of abuse. The 335 agencies licensed under your ministry, that deploy more than 16,000 people, are increasingly getting involved in labour matters. Perhaps to the same extent the OPP and other forces manage to keep themselves out of the turmoil these fools are rushing in where angels fear to tread.

That may be what is happening, but we ought to be much more original and more active in the introduction of appropriate legislation. The legislation has been promised and I have seen the various drafts of the bills, but I think it ought to go specifically into the area of labour relations. The minister ought not to be so set in his opinions, as indicated in the *Hamilton Spectator*, on October 13, 1982, that, "The new provincial legislation simply will not deal specifically with strikebreaking activities," says Solicitor General George Taylor."

If we are going to overhaul the act let us get into all aspects of activities of security people in general, not just security guards. Let us talk about people who come to your home to install a burglar alarm system. Let us talk about locksmiths. They are just as much a part of the security team as anyone else.

If I do a repossession of a store under a

debenture and I call in a locksmith out of the yellow pages, I ought to be confident that if he installs a new lock or a new combination on a safe, or anything of that sort, he is reasonably qualified and competent to keep confidentiality to have been licensed by this province to deal with that aspect of security.

I think we are really talking around the issue if we do not get into the whole area of private agencies that deal with security in all its aspects, from the burglar system in your home to the most sophisticated private guards that monitor and operate in the field of vast commercial enterprises.

Some thought should be given to the whole question of whether a private force can be empowered at any time to be a small-arms-bearing force. It seems that the pressure is growing for a type of private security force which has a right to bear concealed weapons, such as may be happening in certain parts of the United States. I do not really wish to comment on the politics or the implications of that. I simply want to point out to you that there seems to be a growing demand out there for that kind of private security force. The ministry and police officials must respond in due course to that growing pressure.

I have some comments dealing specifically with provisions of the Police Act. I would like to ask the Solicitor General to reply as to what changes are being currently contemplated with respect to the Police Act—specifically, the composition of and representation on police commissions; whether the minister feels that municipally elected officials ought to form a majority of the people on the board of police commissions; whether judges ought to continue to be qualified to be members of police commissions, as is now the case; and also whether any revisions are being contemplated to the tenure of office for police commissioners.

Another subsidiary area would be whether or not the Solicitor General is contemplating the extension of the police complaints commissioner procedure, or some model of it, to areas outside Metro Toronto; and whether the question of expanding regional forces is being contemplated, as opposed to having the OPP continue to service those communities of over 5,000 individuals. It seems to me that the Police Act is going to be substantially revised, at least from ministerial announcements and press reports of it.

There should be some indication by the Solicitor General as to where the ministry's

thinking is leading in the areas of police standards and the Ontario Police Commission; the degree of consultation and the consultation process between management and police associations on matters relating to the conditions under which policemen work; the issue of legal costs for policemen; and the degree of continued provincial control over police governing authorities in general. It seems to me that those are very fundamental revisions to the Police Act. Perhaps the Solicitor General will be kind enough to keep us abreast of the thinking in those areas.

In the last estimates, we had some interesting discussions concerning Sunday closing and the general legislation within the ministry's purview, the Retail Business Holidays Act. There seems to be a great deal of rethinking, especially in the Metro areas, over the question of certain stores in certain areas of the city remaining open on Sundays, whether it be for tourist purposes or the general convenience of the population. We have today's indication that Godfrey's vision is that 1984 will be a year of Sunday shopping. We simply wonder whether the Solicitor General has any thoughts on whether they will continue to enforce the law on perceived breaches of the Retail Business Holidays Act, such as flea markets being open on Sundays.

In my own area in the Jane-Finch Mall it is an ongoing problem. It is also a problem in the Galleria Shopping Mall at Dufferin and Dupont Streets.

It seems to me there is going to be continued pressure, especially in ethnic areas such as Augusta Avenue, College Street and St. Clair Avenue, where the general ethnic population is used to a fair or carnival type of atmosphere on a holiday, to ensure that these areas are exempted from the legislation.

11:20 a.m.

I would like to table some general estimates questions to which the Solicitor General's staff will be able to reply in writing if they wish. These are simply questions relating to the general fiscal restraint program.

I had one more concern, Mr. Solicitor General, if time permits. I think I raised this last year, or began to raise this last year. It is the entire question of organized crime and the use of informers by both the Ontario Provincial Police and by the Metropolitan Toronto police force. Recent press clippings have indicated that the Metro police force has doubled or tripled its budget for finks, otherwise known as

informers, depending on which side of the fence you are on.

We have seen the convictions which resulted from the wide-ranging testimony of Mr. Kirby here in the Metro area; the Comisso convictions, etc. I would like to ask the Solicitor General, through his crime intelligence division or whatever, if he sees an expansion of the role of informers. I appreciate the need for some kind of secrecy and restraint, but I would like to know whether there are many people similar to Mr. Kirby now operating.

I would also like to know what portion of the OPP budget is used, not so much in the maintenance and payment of these professional witnesses while the investigation is going on, but also in their relocation and their subsequent change of lifestyle and accommodation after the convictions. Is it a substantial part, is it a small part or is it a minuscule part? I guess we cannot get any more precise than that, because we all appreciate the security considerations involved.

I said something a little earlier about the Guardian Angels or the vigilantes which are likely to continue to be a concern, especially in urban centres. I don't believe the Solicitor General has ever gone on record to state what his particular views are on those types of groups, well-meaning or otherwise. Perhaps this could be an opportunity to sound out either a welcome or a warning. I was—

Hon. G. W. Taylor: What group?

Mr. Spensieri: The Guardian Angels.

Finally, I was really pleased to see the emergency measures legislation move along. I am equally pleased to see that some thought is now going to be given to nuclear emergencies. That was not contemplated in the previous incarnations of this legislation.

It seems to me, however, that the whole thrust of the emergency legislation remains, at the very best, permissive. While the Solicitor General takes on his proper role as the lead minister, he still says to the municipalities in times of restraint and in times of diminishing provincial and federal grants to the municipalities, that they may set up plans, they may do this, they may do that.

There seems to be no standard to work towards and no mention of the funding requirements. While it is very appropriate to say that something should be in place so that, to quote from your discussion paper, "The tragic earthquakes in Italy with their less than adequate response, and the disturbing bureaucratic bungling will not happen here."

It is comforting to me to hear that, but it seems to me there are no real teeth to this legislation, and permissive legislation is not really going to do the trick. Municipalities are not likely to respond at a time when tax dollars are scarce.

I wanted to say something briefly, since the Solicitor General raised it, about the question of the coroner's office and the success rate we have had in the area of organ donations. It seems to me that the situation, at least from my overview of the press on it, is not really as rosy as the Solicitor General would like to paint the picture.

"There Is a Shortage of Organs,' Worries Coroner." That is in the Toronto Star, June 27, 1982. Dr. Ross Bennett indicates there is almost a chronic shortage. My real question to the Solicitor General is: is he sure enough that the program, involving primarily the donor card, is being adequately advertised and adequately funded? Is it going to be the kind of priority item in his budget that he seems to indicate it is?

I really do not believe that is the case. In an urban setting such as ours, there will always be chronic shortages, whether it be blood or organs, but a lot more could be done. I would suggest to the Solicitor General that he have a multilanguage information program so that participants who might not otherwise even think of this, because it is either repugnant to their cultural background or simply through lack of knowledge of the program, would become participants.

I will give you a small example. In our own riding, the blood clinic people have traditionally had great difficulties in collecting blood. We recently sent out some 5,000 flyers in Italian, and as a result we had wall-to-wall people lined up for some six hours in the Jane-Finch Mall. I toss it out as a concern and as a consideration.

I would like to conclude by looking at an area that I do not believe the Solicitor General has addressed at all. I do not believe, even from the reading of the estimates, that it represents the priority that it should represent in your Ministry. I refer to the area of commercial frauds.

Those of us who practice, although only from time to time, in the commercial field, have seen the rising level of bankruptcies and voluntary assignments. These have really plagued Ontario businesses in the past year and a half to two years. While we realize the commercial fraud section of the Royal Canadian Mounted Police has the primary or lead responsibility in this field, it seems to me there is not enough input

from the provincial side of this commercial fraud section to deal with the specific areas of bankruptcy and voluntary assignments and fraud; the scams having to do with finders' fees and mortgages, the whole area of computer fraud and stock market manipulation.

I would like to ask the Solicitor General what programs are really in place, and the extent to which the forces under his jurisdiction continue to be a participating force, given the commercial fraud section of the RCMP as set up in 1966. I would also like to know whether he feels Ontario, the province with the largest number of commercial enterprises, is being a senior enough partner in that overall process. So with those comments, Mr. Solicitor General, and subject to raising points as each vote comes up, I conclude my overview and my comments on your ministry. Thank you.

Mr. Chairman: Thank you, Mr. Spensieri. Mr. Renwick?

Mr. Renwick: May I say I welcome the opportunity to return again to criticism of the Ministry of the Solicitor General. I believe the wide-ranging statements of the Solicitor General and of my colleague Mr. Spensieri, cover a significant number of the topics we will be concerned with in the course of the review of the estimates for this current fiscal year.

11:30 a.m.

I appreciate the information each of them has provided in expressing interest and concerns in a large number of areas. In the time I want to take up in these estimates, I do not intend to attempt to comment upon a number of the specific items, which can more appropriately be dealt with as we come to the particular votes in which they are encompassed.

Because I comment on matters of immediate concern to me in these opening remarks, no one is to suggest for a moment that I do not have an equal and continuing concern in a number of areas which we will be dealing with on an item-by-item basis throughout the estimates.

Mr. Chairman, I have known John David Hilton for longer than either he or I would be prepared to admit to, let alone recall. It goes back to 1935 and may well have gone back some further period of time. Such distinguished men as John David Hilton and His Honour Patrick Fitzgerald came stumbling through the woods in 1935 to a bare log cabin that I had in Algonquin Park because their car had broken down on the Algonquin Park highway.

In any event, I have known John David Hilton

ever since that time, possibly before that time. We have been personal friends, we have shared some experiences and we have certainly shared a common background. He came from the great riding of Riverdale, and in my latter years I have spent some time in that part of the city of Toronto.

I want to say that I have appreciated the contribution he has made to the public service of Ontario. I think it has been a remarkable contribution over a period of time when life in this province has changed immensely from the days when he first joined the Ministry of the Attorney General. Next month, we will be able to join in honouring him at the dinner to which the Solicitor General very kindly extended an invitation to me a few days ago.

I wish him well in his retirement. I was thinking about him when I was in Niagara-on-the-Lake over the past weekend, and recollecting that he is a sailor and that he has moved there. That is quite a progress from the Riverdale area of Toronto to Niagara-on-the-Lake. It represents an immense journey in a man's lifetime and to be able to sail in the Niagara River and Lake Ontario is a retirement which few of us will be able to savour.

Hon. G. W. Taylor: Lord chancellors; isn't that what they have down there? A very fancy title for their mayor.

Mr. Renwick: I will be able to comment a little bit about the lord mayor on another occasion. I did not know until your statement, sir, that Peter Gow was leaving the public service. I want to say that while I have not known him as well or as long as John David Hilton, I want to add my words of appreciation for the length of time and the contribution he has made to the public service in Ontario.

I am extremely interested to find out what he will be doing at the United Nations. I believe the United Nations is fortunate, and those particular countries where he may be able to make a contribution to the administration of justice, in those areas or in other fields of government, will indeed be fortunate to have him.

I did note that the Solicitor General has not mentioned who will take Mr. Gow's place. Undoubtedly that will become known in due course. I do, however, Mr. Gow, wish you the very best and I know my colleagues on the committee join me in that expression.

I have known and respected the new deputy minister for some considerable time. He and I come at some questions in the field of law enforcement and public safety from somewhat

different viewpoints, but I know that he is aware of the respect I have for him and the enjoyment I get out of the opportunity to associate with him on both formal and other occasions.

Mr. Chairman, the first comment I want to make is that I will be interested to hear, when the Solicitor General responds, about the elimination of some very natural confusion of functions which arose when the offices of the Solicitor General and the Attorney General were held by the same person. That is not by way of criticism, but I have perceived, I think it was natural, that some confusion arose when the same person held two offices.

It appears to me that a rationalization has taken place about responsibilities and duties since the now Attorney General (Mr. McMurtry) relinquished the Solicitor Generalship, and since the change of deputy ministers at both the office of the Attorney General and the office of the Solicitor General.

I think the most obvious example of that was that the last statement made in the Legislature with respect to the deaths of children at the Hospital for Sick Children was made by the Solicitor General. All previous statements had been made in the assembly by the Attorney General in so far as they related to the field of the law as distinct from health matters.

I hope a realignment has been taking place. I would ask the Solicitor General if he would respond to my comment about the internal rationalization within the ministry.

A second preliminary but important question I want to ask is whether it would be possible, since women's participation in the public service is a matter of concern to all parties, whether we could have some statistical information on women's participation in all of the branches of the Ministry of the Solicitor General.

Again, it is not by way of criticism; it is an opportunity for the Solicitor General to comment on the plans which may be under way in his ministry to meet the need for equal opportunity for women.

11:40 p.m.

I turn now, sir, if I may, to four areas, two of which I would like to comment on at some length and two which I want to comment upon briefly.

I find, as Mr. Spensieri found, the reference in your statement about the Young Offenders Act to be much too laconic and cursory and quite inadequate with respect to the concerns expressed last year and in preceeding years about the Young Offenders Act and its implementation. It

has been extremely difficult, sitting in opposition, to get any sense of the response of the various ministries of the government which are concerned with the Young Offenders Act. There are odd statements here and there with respect to the adaptation of the ministries to the new act, but I find the minister's statement—and I quote, "The Young Offenders Act, which is scheduled for implementation in 1983, will necessitate an extensive training program prior to implementation"—to be, if I may understate it, a totally inadequate response.

I would like the Solicitor General, if he would, to—he told me if I mentioned the Young Offenders Act I—

Hon. G. W. Taylor: Would be paid off?

Mr. Renwick: Johnston is just paying me \$20 for mentioning his favourite topic, the Young Offenders Act.

Interjections.

Mr. Chairman: Is that per word or per subject topic?

Mr. Spensieri: Speaking of finders' fees and certain scams, do you want me to investigate?

Mr. Renwick: The second matter I want to comment on at some length is a matter omitted by the Solicitor General and commented on briefly by my colleague Mr. Spensieri. That is the relationship to your ministry and to the government of Ontario of the bill which has been tabled in the House of Commons: Bill C-157, An Act to Establish the Canadian Security Intelligence Service.

I want to take a few minutes to express some of the concerns I have and to ask for the information which I would like to have. I do so with some considerable diffidence. The bill has not been available for a great period of time and there has been little, if any, discussion about the relationship between the security service and the province and specifically the relationship to the Ministry of the Solicitor General in its police function.

I do not want to deal with any of the areas under that bill which would be of more appropriate concern to the Attorney General in his role, but I do have to have some indication of the response of the ministry to this bill; what their plans are and how they intend to deal with it.

I am not one who is given to much recollection, but since I have been in the assembly—going back quite a long time, indeed, dating if not ante-dating the time when the Honourable John Turner was the Minister of Justice—I have

been continuously concerned over the relationship between the Royal Canadian Mounted Police and this government in its police role, its relationship with the Ontario Provincial Police and its relationships with the municipal police forces throughout the province.

I have been concerned both with respect to its police functions and I have been immensely concerned with respect to its security functions. I believe my first concern with respect to the RCMP security functions was when I attempted to find out why a constituent was denied his Canadian citizenship. A security report on that person from the Royal Canadian Mounted Police was never ever available to anyone. The man continues to live in the country; I do not now know where he is. I assume that by now the hurdle may have been overcome and he has been granted his Canadian citizenship.

Sufficient to say it was clear, from what little information I could gather, that the basis of the report which damned him and prevented him from getting his Canadian citizenship was because of the relationship between the RCMP and the security forces of Portugal, which was then under a dictatorship.

I found it offensive that I got no answer to the question. Indeed, when I wrote to the then Minister of Justice asking him to give me what statutory authority there was for the security function of the RCMP, I received no satisfactory response.

So that concern has existed for a long time with respect to the security functions of the RCMP. My first basic concern with the RCMP with respect to its police function had to do with the iniquitous writs of assistance which have been in existence in this country for a long time. We forget, of course, that it was one of the precipitating causes and one of the reasons why the American Revolution took place and why writs of assistance are not allowed under the Bill of Rights in the United States.

Without going unduly into the past, I wanted to lay that very brief background of a continuing interest and concern that I have had about the relationships of the RCMP with the police forces in Ontario and with the government of Ontario. That problem has never been resolved. There has never been available, on a publicly accountable basis, a clear understanding of the role of the RCMP in Ontario on either of the two heads of their activities.

I come, therefore, now, to Bill C-157 and I find two or three areas where I would like to have your very clear and specific comments

about the way in which the security service will function.

I refer to subsection 15(2) of Bill C-157 which states "the service"—that is the Canadian Security Intelligence Service—"may with the approval of the minister"—referring to the Solicitor General of Canada—"enter into an arrangement with the government of a province or any department thereof or any police force in Canada, authorizing the service to provide the government, department or police force with security assessments." "Security assessments" are defined in the interpretation part of the bill, to mean "an appraisal of the loyalty to Canada in so far as it relates thereto the reliability of an individual."

I know that I need not elaborate on my concern. I think that it is quite within the range of your perception of my concern; that you can understand the ambit of my question and the information which I wish to receive on that area. If you wish me at some point to elaborate at some greater length, I can and I will attempt to do so.

11:50 a.m.

Specifically, I want to understand what that means, how it will function, whether it is anticipated that it will function within this province, and if so, how, and by what authority and under what terms of public accountability?

I emphasize that it is not only an arrangement with the government of a province, but it is an arrangement with any department of the government of a province or with any police force in Canada. In the case of Ontario, that would mean any one of the police forces in the province, including the Ontario Provincial Police. The purpose of it is to provide the government, the department, or the police force with security assessments of citizens in the province.

The minister knows where I come from on those particular types of questions, and the concerns which I have about them. I refer now also to section 19 of the bill, which states that "for the purpose of performing its duties and functions under this act"—the duties and functions are set out elsewhere in the act, but one need not be a reader of John Le Carre books to understand what the duties and functions of a security service may be.

I quote from section 19, "For the purpose of performing its duties and functions under this act, the service may (a) with the approval of the minister"—meaning again the Solicitor General of Canada—"enter into an arrangement or otherwise co-operate with any department of

the government of Canada or the government of a province or any department thereof or any police force in Canada."

I would like to understand what the ambit of that section is, and how, sir, you would respond to it because of your role as Solicitor General, particularly because of its reference in all-embracing terms to "any police force in Canada."

You will note—as I am sure you have, in whatever opportunity you have had to examine the act—that the judicial control referred to in part II of Bill C-157, in connection with the warrants, specifically excludes section 15 which is one of the sections to which I have referred. It also excludes section 17 which states that, "For the purpose of providing security assessments pursuant to section 15"—I skip the other reference because it may not be appropriate to the province—"the service may conduct such investigations as it considers appropriate."

Further on in section 21, it provides that "the director and employees are justified in taking such reasonable actions as are reasonably necessary to enable them to perform the duties and functions of the service under this act."

I guess we will live to be haunted by the phrase, "reasonable actions as are reasonably necessary." It is not our role to get into the kind of debate and discussion which will take place in Ottawa in the House of Commons on the exact meaning of those clauses.

The last references I would like to make to the statute are to sections 55 and 56. The sections to which I previously referred pertain, of course, to the security service to be established under the act. These sections refer to the role of the Royal Canadian Mounted Police. Section 55 provides that "members of the RCMP who are peace officers have the primary responsibility to perform the duties that are assigned to peace officers in relation to any offences referred to in clause 52(a) or (b) for the apprehension of the commission of such an offence."

Clause 52(a) specifically relates to "alleged offences arising out of conduct constituting a threat to the security of Canada within the meaning of the Canadian Security Intelligence Service Act."

It then goes on to say in section 56: "The Solicitor General of Canada may, with the approval of the Governor in Council, enter into arrangements with the government of a province concerning the responsibilities of members of the RCMP and members of provincial and municipal police forces with respect to the

performance of duties assigned to peace officers in relation to any offence referred to in paragraph 52(a) or (b), for the apprehension of the commission of such an offence." I need not repeat paragraph 52(a).

Sir, I would ask that you take this committee into the fullest confidence that you can with respect to any prior involvement in discussions with the federal government regarding the establishment of this security service. As well, we would like to know your present reflections and concerns with respect to this security service and the—if I can use that dreadful term—"interface" between that service, the RCMP and police forces in this province and your ministry in so far as you are concerned over the nature and terms of the bill.

I would also like you to comment, as an ongoing matter, on how you will see to it that the rights of the individual citizen in Ontario are protected in any arrangements which may be made in relation to that.

Some time ago I received from the Attorney General (Mr. McMurtry) the voluminous correspondence and supporting documentation of a letter from the Attorney General, who was also Solicitor General at that time, to the Honourable Jean Chrétien, then the Minister of Justice and Attorney General of Canada, dated October 31, 1980.

The reverberations of the case, referred to in that matter, were related in the *Globe and Mail* as early as this morning in relation to the small claims court claim being made by Ross Dowson against RCMP superintendent Ronald Yaworski and former assistant commissioner Stanley Chisholm in connection with offences under the Criminal Code and other related matters.

While this correspondence related to that particular investigation, it was the basis on which the Attorney General expressed some very serious concerns, not only about himself but with respect to police investigations.

12 noon

I would not be at all surprised if a number of the drafts, if not the final draft or the final letter, were composed by your Deputy Solicitor General. I am not certain about that, but I would not be surprised. In that letter the Attorney General raises amazing concerns and dissatisfactions with his inability to perform what he considered to be his constitutional responsibilities. I don't want to quote any more of this, but I must to establish the point I want to make in relation to the matters that concern me.

He is relating to the problems which Inspector Pelissero of the Criminal Investigation Branch of the Ontario Provincial Police and an officer of his department had in obtaining the kinds of evidence which would permit them to make a decision whether or not these charges, which are still reverberating in the small claims court, but which originated as an investigation of whether or not criminal charges could be laid against Stanley Chisholm and Ronald Yaworski, were possible.

He states, and I am quoting the present Attorney General: "As the Attorney General and therefore the chief Crown law officer in this province, I believe that I have a legal and constitutional duty to be apprised of any information concerning potentially criminal acts within Ontario." Further on in the letter he states: "Some considerable time ago the Ontario Provincial Police commenced an investigation into an allegation that a member or members of the RCMP had broken the law with respect to one of the 10 incidents referred to in the transcripts you have sent me. It is impossible for the OPP to complete that investigation or to investigate the other nine incidents without all the relevant information.

"To permit the OPP investigation to be a thorough and proper one, it is essential that, either directly or through me, they receive from you as Solicitor General and from the RCMP all relevant information, not just in your possession but also in the possession of the RCMP, and, where necessary, in the possession of the MacDonald commission.

"It is my view that the RCMP are accountable to me, as chief law officer of the Crown in this province, for their acts in this province. That accountability includes a duty to bring to my attention all information relevant to possible breaches of the law in this province by or on behalf of an RCMP member or members, whether such acts arose out of the RCMP's criminal investigation function or its security service function.

"The OPP have a duty to investigate the allegations in question here and, to date, your government appears to have taken a stance which, in my view, will frustrate that investigation and thus the administration of justice in this province."

The whole letter is a lengthy one of some 24 pages with numerous attachments. I believe it reflects the immensity of the concerns I have endeavoured to express in relation to the secu-

rity service. If you add to the words "Royal Canadian Mounted Police" in the quotations I have made from that statement, or substitute for the MacDonald commission the Canadian Security Intelligence Service where I have referred to the problems of the Attorney General in Ontario, you will understand the fundamental kinds of questions which are involved in the terse language of this new Bill C-157.

I would like to conclude my comments about those concerns with why I have asked for your general clarification and complete accountability to this assembly through this committee about the whole ambit of that security operation. Because I mention one specific area, I do not want to be in any way taken as limiting the area of the inquiry which I make.

There is an elaborate procedure with respect to persons who may have been denied security clearance under this bill for a review. There is nothing to indicate that if, by arrangement with this government or with a police force, a security assessment is made of any individual that there is any process I can see which applies for the purpose of giving that person an opportunity to understand the reason for the decision or, if it is a contract of employment or a contract for services or whatever, the extent of the relationship which is denied to him because of this kind of intrusive security work.

I want to end with a brief recollection and a quotation. In my riding of Riverdale during the time of the Greek military junta there was established the Friends of PAK. PAK was the forerunner of the present governing party in Greece. It was established in my riding. It is a matter of which I am immensely proud, to have been associated with the founding of that organization. It counts among my first close association with members of the Greek community, which has continued until this time.

When you recall that the Prime Minister of Greece, Andreas Papandreou, was in this country, was feted by each government that he came in contact with, was well received, left an amazing impression, as did his wife, Margaret Papandreou, when you consider the kind of information and investigation which took place of the Friends of PAK by the Royal Canadian Mounted Police disguised as its security function, it makes me shudder as to what can happen in this province when we do not understand what they are doing, why they are doing it or what their justification was.

Obviously, they were working on an inter-

change of information with the Greek police, with the Greek intelligence services who were supporting the most corrupt junta that has ever existed in modern times in Greece and which collapsed because of democratic action. That recollection, sir, coupled with the original recollections with which I opened my comments, will express the depth of feeling which I bring to the topic.

I do not want anybody to misunderstand. I live in a world which I believe is the real world. Others may disagree with that. I recognize the threat and the need for a security service. I also recognize very clearly the relationship between that security service and the rights of individuals in a democratic society, not when things are fine but under times of stress. Those are matters for which I believe in our limited way in this committee we have an obligation to be accountable.

12:10 p.m.

I can only quote briefly from the introduction to the second edition of *Rumours of War*, by Ron Haggart and Aubrey E. Golden, to which the Honourable Robert Stanfield contributed the introduction in 1979. A couple of paragraphs from his introduction end the expression of concern which I have.

I quote Robert Stanfield: "Citizens who value civil liberties can derive some encouragement from the widespread concern about allegedly illegal security operations which led the government to appoint the McDonald commission. Opposition members of Parliament pursued the issue despite complaints that they were smearing the RCMP. It is fortunate that this issue of arbitrary and illegal security measures has come to the fore in an atmosphere of relative emotional calm; unless the calm is broken, we have a fair chance that the findings and recommendations of the commission will be considered by the government, Parliament and public with some degree of dispassion. We may then have the opportunity to formulate rules and guidelines for security operations which are consistent with a concern for civil liberties.

"This would be civilized progress, but it would still be limited progress. Although appropriate guidelines for security operations are important, we cannot reasonably hope to protect the individual from arbitrary official behaviour by written rules or laws alone. Our present Bill of Rights," and he was writing in 1979, "makes provision for a War Measures Act or its equivalent, and any bill of rights likely to be enshrined in our Constitution will have to do

the same," and now we have that. "Civil liberties in Canada will therefore continue to depend basically upon the importance Canadians attach to them and upon our willingness to defend them even in times of stress. In our search for protection from violence we must recognize that arbitrary abrogation of individual rights weakens rather than strengthens social order."

He concludes, "*Rumours of War* helps us to understand this and tells us something about ourselves we must not be allowed to forget."

I have gone on at some length in that area because I have immense concerns about these issues. I feel deeply about them. I trust that there are many others in the assembly who share that kind of basic concern.

I would like now, if I may, to turn to the third of the four items I wanted to refer to in connection with my opening remarks on these estimates. It relates to the role of the Ontario Provincial Police and the role of the Metropolitan Toronto police in the bitter labour dispute between Automotive Hardware and Securicor on the one side and the union on the other hand, the United Steelworkers of America.

In your remarks on page 13 of your opening statement, in referring to industrial disputes, you go on to say: "This is further proof that police officers in this province do not improperly involve themselves in labour-management disputes. They are neither pro-management nor pro-labour. In the instances they are called upon, they are there to enforce the law and to ensure the safety of the public and the people involved. To suggest otherwise," and if I could put it in italics I would, "is to discredit the police officers of Ontario." Then you go on to refer to Securicor and why you, in your judgement, consider it inappropriate to comment further.

I need not be polite here about my position with respect to the police. I think it is very clearly understood that it is precisely the regard for the police which requires that matters such as those reflected in the decision of the Ontario Labour Relations Board be forcibly and completely investigated by you. Having an investigation of the police by the police with respect to the serious concerns which the decisions of that board have raised would be a very difficult task. I know the matter is likely to be under judicial review. The judicial review will not alter the findings of fact which are involved in the decisions of the Labour Relations Board.

A week ago today my colleague the member for Hamilton East (Mr. Mackenzie) tried to have an emergency debate in the assembly on

this issue. This matter is of urgent public importance and cannot be stated any more succinctly or accurately. It involves the conspiracy between Automotive Hardware Ltd. and Securicor Investigation and Security Ltd. to subvert the laws of the province, particularly the Labour Relations Act; the matter of whether the actions of Securicor were known and condoned by the police as alleged by Securicor and reported in the Labour Relations Board's decision of Friday, May 13, 1983; and the continuing threat posed to Ontario's collective bargaining system by the use of undercover agents, provocateurs and strike-breaking firms, such as Securicor, by employers in this province.

Hon. G. W. Taylor: I believe the date of the emergency debate was Thursday last; you said a week ago today.

Mr. Renwick: Yes, it was. Thank you for the correction. It was on Thursday last, yes, which would make it May 19.

The debate was refused. The Solicitor General emphasized the neutrality of the police in the question. I want to know at the earliest possible opportunity the date on which the Ontario Provincial Police and the Metropolitan Toronto Police, knew, through any one of their members, that there was an undercover agent in the employ of Securicor hired by Automotive Hardware. Also, what was the extent and degree of the knowledge of the police, who had any contact whatsoever with that strike situation, as to the roles being played by that undercover agent with respect to the subversion of the Ontario Labour Relations Act?

I believe it is absolutely essential, if there is to be public confidence in both police forces restored amongst organized working people, that we have a clear statement about the extent and degree of their knowledge in connection with that matter and what, if anything, they did or did not do in connection with it. If the answer is that they were not aware of anything, then that statement should be made. If they did know, that statement should be made, including the extent of their knowledge, and it must be made very, very clearly.

12:20 p.m.

There is a broader, deeper and tougher question as to whether there existed, as I believe there did, a conspiracy between Automotive Hardware Ltd., Federal Bolt and Nut Corp. Ltd. and Automatic Screw Machine Products Ltd. in their relationship with Securicor Investigations and Security Ltd.

Then I want to know whether or not anyone could make a case that the police knew and condoned that conspiracy in any way, or whether one could make a further case that they were accomplices in that conspiracy in any way, shape or form.

I believed that it was a matter of urgent public importance. The Speaker ruled otherwise. I could not conceive in my own mind how it would be possible to think this was not a matter of urgent public importance. I am now more convinced than ever by the statement of the Solicitor General in his opening remarks, that in the suggestion I have made about my concerns, in the forcible way I have been able to make it, I would be discrediting the police officers of Ontario.

I trust that this is not what you meant. I trust, sir, that you will understand the deep and abiding concern which the decision of the Ontario Labour Relations Board arouses in those of us charged with monitoring the legislation of this province in some way and the way in which the statutes are administered and fulfilled. I do not want to go through the decision of the Ontario Labour Relations Board at any length. I want to try to convey to my colleagues on the committee and to you that I am quite aware of it.

It was a lengthy decision by the board. There were some 80 numbered paragraphs in the decision. It ran to some 66 pages, including a partial dissent on the last page by one member of the board. It opened with a couple of very clear and specific matters which should be noted in this committee, that Automotive Hardware and Automatic Screw Machine were not parties to the application before the Ontario Relations Labour Board because the strike was settled. Part of the terms of settlement was that the trade union would withdraw the complaint in so far as it is related to those companies.

That is for information. It does not alter the basis of the statement I made, that it requires a complete understanding as to the extent and degree of what I believe to be the conspiracy which existed between those two companies and Securicor to get at the problem of basic concern to me.

The other matter in the statement which must be noted is that the board says, "This is the first time that the board has been called upon to inquire into the activities of a security company acting on behalf of an employer engaged in a labour dispute and an issue which has been the subject of much recent public debate."

In his remarks in the Legislature, my colleague, in his very succinct, accurate and brilliant statement in the five minutes allotted to him to make his case, drew attention to the number of occasions on which he, as a member of the assembly, had raised the issues that were involved around Securicor and listed the specific dates on which he made those particular interventions.

The board found that this Mr. Ivers was, firstly, hired to provide information to the employer on "union strategy, bargaining unit support for union position, rank and file views of union leadership, strategy, tactics and dissension with union." The second purpose of Ivers' assignment was to "foment and foster dissent within the union."

The board found that Securicor interfered with the administration of a trade union and was in contravention of section 64 of the Ontario Labour Relations Act when it attempted to compromise the local union president and when it assigned Ivers to infiltrate the union. From page 48 of the judgement: "The actions of Securicor in this regard constitute not only a flagrant undermining of the arm's length relationship under the act between employer and trade union, but an attempt on behalf of the employer to circumvent the bargaining agent in order to deal directly with the employees."

The order was then issued by the board and a number of questions follow from that. In the course of that decision, on paragraph 41 on page 32 it clearly states that part of Securicor's defence was that its actions "were known and condoned by two sets of police." "Apparently the police"—and this is a paragraph from the decision of the board—"were made aware of Securicor's involvement at Automotive some time in advance of when they actually informed the union of Securicor's activity, resulting in Ivers being pulled off the line on February 17, 1982. It is interesting to note that the police waited until after the company had applied for a last offer vote on February 4, 1982, before informing the union."

This is, of course, where I disagree immensely with my colleague the Solicitor General. I cannot find the particular quotation, but the point is quite clear that Securicor continues to be licensed to carry on its business in the province at this date, despite the fact that there is power, as I understand it and as I read the act—I can be wrong on that matter, but at least there was an opportunity—to suspend the licence of that company on the strength of the decision

of the labour relations board. I cannot understand why that action, at least, was not taken.

I find it quite unsatisfactory that the Solicitor General has made no reference whatsoever to an investigation by the investigation branch of the Ontario Provincial Police of the role of the Ontario Provincial Police and the role of the Metropolitan Toronto Police in that vicious conspiracy to subvert the laws of the province.

I trust that the Solicitor General will reflect on his comment when he stated that it would be inappropriate for him to make any further statement. I think these estimates demand that kind of statement and demand that it be made forcefully.

12:30 p.m.

The fourth item is one which I want to comment on only briefly because I have great difficulty myself in expressing it particularly well or in dealing with the issue I want to raise. I have had the opportunity for the last couple of years now, not only of being critic for one particular ministry of the area comprised in the administration of justice in the province, but, of being critic for the Provincial Secretariat for Justice and the ministries of the Solicitor General, the Attorney General, and Correctional Services.

It is becoming more and more apparent to me, as I try to look in an overall sense of perspective on the administration of justice in the province, certainly in so far as it relates to criminal and other statutory offences, that there is not the kind of basic statistical information of an informative nature which can provide the assessment of the trends which are taking place in the province in relation to the administration of justice that is necessary to answer almost any question which may come up. I find the figure quite unbelievable when the chief justice, in the opening of the courts this year, indicated that—my memory hasn't got the actual figure—something over four million charges were laid in the province in the one-year period. That ranges from the most minor infraction of some municipal bylaw or a parking ticket through to the most serious offence.

I find that in each watertight compartment of the administration of justice system there is a growing awareness of statistical information, but it bears no relationship to the other branches of the administration of justice to permit any development of any trending operation.

Just to use one example, I find in Correctional Services we are being faced with the possibility that another jail will be built in Metropolitan

Toronto. If we need a jail, and I do not think anybody is going to disagree with it, there is not the information which leads one to any conclusion that a jail is necessary, other than perhaps present-day factual information that there are more people in Metropolitan Toronto jails than the present buildings can confine.

That is not administration of justice. The question is, how did they get there? Should they have been there? Should they have been there as long as they have been there? That, of course, relates to the onset of the criminal justice system, that is, when a person is charged or summonsed by the police. That means that the starting point of all meaningful statistics of the justice system in relation to crime and statutory offences commences right in your bailiwick.

We have lots of information which is, in a very static sense, provided to us. What it means, no one knows. In your statement you made some reference to some statistics. I find the references interesting but uninformative. I do not know what conclusions I am supposed to draw from them. I do not know whether I am supposed to say, "Oh, isn't that good," or "Oh, that's dreadful." I am not one to criticize lightly. I like to give credit where it is due.

There is no way in which one can tell the numbers of people who are entering the justice system through the police, through charges or by being summonsed, and the number of people who are ultimately released back to society, free of any string of any kind by the state on those persons, whether it be by opening the door of the institution and releasing the person, by the termination of a community work order, or by termination of probation.

Until we have some sense of that kind of flow through the hands of the police, through the court system and into the correctional process and other systems, there is no way that anybody is going to be able to make a valid judgement.

The statistical area is one which is of immense concern to me, and I give it for what it is worth. Until we have a solid sense of the statistical flow related to the people involved, it will be extremely difficult to make intelligent and informed decisions about what should be done in the field of criminal justice administration, corrections and police work in public safety and enforcement.

We do not know, for example, whether the deployment of the police makes sense, judging from the way in which the multifarious branches of the service conduct their investigations and ignore other areas of investigation. You can

pick and choose as to the areas in which the concentration of police activity will take place.

As I said, I don't have any particular skill, nor do I have the statistical information, but it is an area which I tried to start on slightly over a year ago. It is one I hope to be able to continue for the next two or three years as a major theme, how we can deal with that kind of statistical flow of information.

I suppose the obvious last comment would concern the fact that, for example, police statistics with respect to charges laid simply end at that in most cases. There is very little indication of what happened to the persons who are charged in the course of the system. There is very little indication of what it means when we say that there was an increase of two per cent this year over last year in certain types of crime.

I think one is supposed to feel concerned about it, but when one really asks oneself if it means anything in terms of the administration of justice in its overall sense, I think the answer is that it is probably meaningless information. I don't think it shows anything of any real significance.

I have gone on somewhat longer on those issues than I had expected. I will appreciate the opportunity to speak of those matters which are of major concern to me, without taking away from the importance of all the other issues we will be discussing as we move into consideration of the estimates on an item by item basis.

Mr. Chairman: Thank you, Mr. Renwick. Mr. Minister, do you wish to start your reply now or would you prefer to wait until tomorrow afternoon? We have only about 20 minutes left.

Hon. G. W. Taylor: I would hate not to use the 20 minutes to some advantage. I don't know whether it would be beneficial if any of the other members wanted to add some quick comments now.

Perhaps the committee wants me to commence replying to the numerous items Mr. Spensieri and Mr. Renwick have mentioned and the very thoughtful comments both of them made, as well as the 21 questions Mr. Spensieri has provided on the general fiscal restraint, some of which we will commence to prepare answers to. However, I am in the committee's hands. Perhaps some of the other members want to make some quick comments.

Mr. Kolyn: I have a quick question. I think you were out of the room, Mr. Chairman, when Mr. Renwick brought up the new bill on the

Canadian security system that is being looked at in Ottawa at the present time.

Mr. Chairman: Excuse me. Are you going to ask a question?

Mr. Kolyn: Yes.

Mr. Chairman: I think we had better wait until the minister's reply is complete. What I was asking committee members for, really, was some direction as to whether they wish to proceed from now until one o'clock.

12:40 p.m.

Mr. Kolyn: I am sorry.

Mr. Chairman: Mr. Gillies.

Mr. Gillies: I have no objection, Mr. Chairman, if we were to go to one o'clock. Just by way of suggestion, if a few members of the committee have questions to ask, the minister might want to have his staff pull some information together for him before our next sitting. We might be able to slip a couple of those in now to some advantage.

Mr. Renwick: It would be quite agreeable with me.

Mr. Chairman: I am completely in the committee's hands.

Mr. Renwick: I think the critics of each of the parties have a minor priority in the committee, but I certainly do not think it should take away the right of the individual members of the committee to participate as well. I certainly would be quite happy with that.

Mr. Spensieri: There is no doubt that if there are questions that needed to be asked, it would be advantageous to have the minister have time to prepare the answers or to get input from his staff. I think it advisable that any other members who have questions should put them now.

Mr. Chairman: All agreed? Mr. Kolyn.

Mr. Kolyn: Mr. Chairman, I was referring to Mr. Renwick's concern about the new agency for the security system. Of course, we are all concerned about the security system of Canada. Mr. Renwick read some quotes from a letter from our Attorney General (Mr. McMurtry) to, I think, the Honourable Jean Chrétien. If we are going to be talking about the Security Act, I certainly would like to know what the Attorney General was telling the Solicitor General in Ottawa at the time with regard to the security service. If possible, would Mr. Renwick divulge this information to us?

Mr. Renwick: There is no problem. There is nothing particularly secret about it that I know

of. I have covered the background and the groundwork, but the concerns and comments are, at least in part, what I expressed.

Mr. Spensieri: I just wanted to be assured it was not leaked.

Mr. Renwick: No. The Attorney General delivered it to me himself in a brown envelope. Is it possible that we could have copies made of it for those who would like to have a copy?

Ms. Fish: Couldn't the clerk do that for us, Mr. Chairman?

Mr. Chairman: Certainly. Anybody else?

Mr. Gillies: Mr. Chairman, I thought the Solicitor General might be able to get some information together.

Having served on the standing committee on Social Development when we were considering the whole question of wife abuse and family violence, I am particularly interested in this area. I am therefore focusing on the minister's comments on this, pages 22, 23 and so on of his statement.

Specifically, Mr. Minister, I would like to know how many of the municipal police forces have acted on your memorandum suggesting that the police should, in cases of clearly identifiable abuse, lay charges. I think the Solicitor General will recall that my preference at the time of the committee's report was that the police departments be instructed to act on this as opposed to reacting to suggestions.

If it is possible to get that information, sir, I would like to know just what steps the municipal police forces are taking in this area. Once we have that information, if the committee is agreeable, I might like to make a few further comments about that.

Mr. Chairman: Thank you, Mr. Gillies. Anyone else?

Mr. Spensieri: Are we precluded from asking more questions?

Mr. Chairman: Are you going to ask more questions?

Mr. Spensieri: This follows from Mr. Renwick's penchant and predilection for statistics, and I totally agree with him that it is sometimes impossible to have any useful statistics.

My question to the Solicitor General is basically that, given the fact that the Provincial Secretary for Justice (Mr. Sterling) has an overall responsibility for research and statistics, and given the fact that he has certainly contributed to the Canadian Centre for Justice Statistics, what is the mechanism the various minis-

tries, supposedly under the power of the superministry, use in co-ordinating statistics to arrive at the cohesive type of statistical information to which Mr. Renwick was referring?

I guess it really relates back to the original question of how the Solicitor General views the role of the secretariat in this particular ministry and what degree of interaction there is between them.

Mr. Chairman: Thank you. Mr. Kolyn.

Mr. Kolyn: There was a recent article in the paper about an 85-year-old woman. There was some confusion as to how she had died. There was a correction, I believe, by the coroner that she was stabbed. There was quite a delay. Could you give us a little more clarification as to how that happened?

Mr. Chairman: Does any other committee member have a question for the minister's consideration?

Ms. Fish: I hope the notification of particular questions now in no way obviates the pursuit of questions as we go through the various votes in session.

Mr. Chairman: It in no way precludes you, Ms. Fish.

Hon. G. W. Taylor: This is just a very convenient way right now because we are running out of time. I have some knowledge of many of the items talked about this morning, but not a thorough knowledge. I want to make sure I have the correct people here to advise me and give the committee members the correct answers. Some of them do require, as Mr. Spensieri's questions will require, considerable research. If there are any other questions, the research can be done between now and our next meeting. It in no way precludes your asking one at a later date. It is your prerogative.

Mr. Chairman: Mr. Stevenson.

Mr. Stevenson: Mr. Chairman, some time during the committee's sitting here, I would like to get some information on high-technology developments in police work.

There have been reports coming out of the United States of problems linking various police forces across states, and between states and federal agencies, and so on. Some of the systems just do not link very well and there are a number of different procedures in use and so on. I wonder if we could have a quick review of what developments have occurred in the past few years in that particular area, how successful the co-ordination has been across Canada, where

some of the people involved would see us going in the next few years, and the improvements that could be made in that particular area as developments in computers and various other systems come on line.

Mr. Chairman: Mr. Brandt.

Mr. Brandt: Mr. Chairman, there may be some limited amount of research required in a couple of the questions I wanted to raise with the Solicitor General. Perhaps I could briefly touch on them now. I wonder if some comment could be made during the course of our discussions in regard to the expansion of the Ontario Fire College in Gravenhurst that was discussed at some length in the last estimates. I have an ongoing concern about the problem of chemical fires, in particular, as they relate to the training of municipal police forces. I know the Solicitor General is aware of my concerns in that particular area.

Second, the Solicitor General did make passing comment during the course of his opening statement with respect to the new laws for firefighters' helmets. I believe the Solicitor General is probably aware of the fact that a number of municipalities, namely, the cities of Thunder Bay, Windsor and, more recently, my own municipality in Sarnia, have forwarded resolutions requesting that the provincial government provide grants, subsidies or assistance to pay for the implementation of this particular program. I might add by way of very brief comment that this is obviously part of the Ministry of Labour with which I am involved.

The concerns on the part of the municipality are generally that the requirements are going to be implemented somewhat more quickly than they had anticipated. I suppose there could be an argument on that, because they were in on the negotiations right from the beginning. I have been told they are having difficulty in budgeting for these new helmets on an interim basis. This would be, first, for a cosmetic change of the helmets to meet with the requirements in the regulations and, second, to meet with the ultimate final changes that are required in the helmets. There is a two-stage step up, as I understand it.

Specifically, I would like to know whether or not the province is considering any grants or assistance for municipalities in regard to that particular question.

Mr. Chairman: Anyone else?

In view of the time, I would suggest we adjourn for the day and resume tomorrow after routine proceedings.

The committee adjourned at 12:52 p.m.

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Spensieri, M. A. (Yorkview L)
Stevenson, K. R. (Durham-York PC)
Taylor, G. W.; Solicitor General (Simcoe Centre PC)



Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of the Solicitor General

Third Session, 32nd Parliament

Thursday, May 26, 1983

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, May 26, 1983

The committee met at 3:44 p.m. in room 151.

ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL (continued)

Mr. Chairman: I see a quorum, so we may as well get started. This afternoon we will have to break at about 5:40 or 5:45 for a vote on private members' business.

I believe we left off yesterday with the critics having given their opening remarks. We also had some questions that might require some research work to be done by the ministry. Minister, I turn it over to you for your reply.

Hon. G. W. Taylor: Thank you very much, Mr. Chairman, ladies and gentlemen of the committee and colleagues.

I have tried to do this in the areas and topics represented by the individuals and to give some brief remarks on them. There are other areas on which it will require a little more time to answer some of the detailed questions, particularly those put forward by Mr. Spensieri in his 27, I believe, added questions at the end. It will take us a little more time to produce the information on those because they are detailed budgetary questions.

Without appearing patronizing, I would like to compliment the members on their questions and the thought they have given to some of the areas and subject matters of the Ministry of the Solicitor General.

First of all, let me deal with the first question Mr. Spensieri put forward, that of pornography. I see that his leader has raised, by way of media release today, some of those items. I am pleased to see that they have seen the light and are coming on board our train in this matter.

The ministry, prior to my time as minister, had taken some great initiatives in the particular area of pornography, in setting up Project P. As you will recall from my opening statement yesterday, there has also been an increase in the number of prosecutions, seizures and requests that both I and the Attorney General (Mr. McMurtry) have made to the federal government regarding amendments to the Criminal Code.

There have also been warnings that I have

given and that the commissioner of the Ontario Provincial Police has spelled out, along with the very definite requests we have made to the federal government, knowing full well that there have to be some changes in the Criminal Code. Indeed, they commenced that through Jean Chrétien when he was there. There were to be changes in the Criminal Code which just did not come about and were removed in the last round of amendments to the code regarding sexual offences.

Hopefully, those will be brought back again with some more precise definitions, particularly in regard to child pornography. I recall emphasizing this area to the then federal minister, particularly with regard to sex and violence and the proliferation of that type of atmosphere through cassettes. Some amendments to the Criminal Code are surely in order to change the violent acts that appear on those cassettes and particularly the increasing amount of violent acts with regard to females.

Through the Ministry of Consumer and Commercial Relations, we have some changes being considered with regard to censorship as a result of the most recent court decisions on the charter on censorship and films for public distribution. Some initiative in that area has already commenced.

The increased amount of this activity is naturally one that I think all my colleagues here and all of society should be concerned with. This issue is not entirely restricted to being exclusively a women's issue. One can certainly notice the trend in these violent films, with the abuse of the female body by the producers, be it only in some instances by artificial means.

There is a theory and belief that some of the violence towards human beings, particularly females, is not just by way of art but is actually taking place. If one could change the laws in any way to prevent the sale, distribution and production of that type of thing, it would be a welcome change as far as this minister is concerned.

Mr. Renwick: I do not know whether the minister would like to deal with all these responses and then come back on them. Should we talk a

little bit about the pornography issue? I am entirely in the hands of the chairman.

Hon. G. W. Taylor: I am also in the hands of the chairman. There were many questions put, and I was going to try to hit them in an orderly fashion, but to deal with one particular subject matter does not bother me.

3:50 p.m.

Mr. Renwick: Do you think this fits here?

Hon. G. W. Taylor: It's topical, indeed.

Mr. Chairman: It's the committee's decision. Would you wish the minister to proceed through his reply, or would you wish to perhaps discuss each one of the issues as we go along?

Mr. Elston: How long is his reply?

Mr. Chairman: If it's as long as the two remarks were from the opposition critics, it will be about two hours long. I'm not saying that to be smart; that's a fact. I am just trying to give you some indication of what I would presume.

Mr. Elston: Perhaps he has an idea of how long he is going to be. We have about three hours, as I understand it, remaining to us.

Mr. Chairman: No, we have six hours and six or seven minutes.

Ms. Fish: What? Six, almost seven hours; that's a vast time.

Mr. Elston: I would hate to see you go on for a long time and then not have enough time to come back to discussion.

Hon. G. W. Taylor: It will take some time this afternoon. I must say, as I mentioned at the outset, the positions and questions put by the members of the committee were very precise.

Mr. Renwick: I withdraw my comment, Mr. Chairman.

Hon. G. W. Taylor: Go ahead.

Mr. Renwick: No, I didn't have any strong feeling about it. Why don't we go ahead?

Mr. Chairman: I think that probably the preferable way would be to allow the minister to get his reply finished. Then we can discuss the issues as we go. If that's all right, we will proceed.

Hon. G. W. Taylor: One other area as we move along is that of the Charter of Rights and Freedoms and new amendments. As you will recall, Mr. Spensieri, you were mentioning search and seizure and what training is presently taking place.

At the outset of the change in the Charter of Rights, particularly in regard to the caution produced by the Ontario Police Commission in

co-operation with information from other police people and through the legal offices of the Solicitor General and the Attorney General, the proper form of the caution was prepared and distributed instantaneously, I might say, on the passage of the Charter of Rights. Therefore, all police officers would be aware of at least that portion of the major changes in the charter. I believe it was delivered in a plasticized form so that they could have it and use it at all times.

I am also coming back to a later feature that I will be discussing. You mentioned notebooks. It is also on the front of the new notebooks that all police officers generally use, as another reminder of the use of the Charter of Rights.

Also, the training at the police college is into that area. Undoubtedly, production will be completed very shortly, if it has not already been completed, of videotapes for distribution to the different police forces. The training has increased in the area of what the individuals' rights happen to be in the new Charter of Rights. As a lawyer, you know that naturally it is an unfolding process, as will be the training and the information.

You also mentioned the Provincial Secretary for Justice (Mr. Sterling) with regard to policy issues. There are some situations where the Provincial Secretariat for Justice is, as you are probably aware, the co-ordinating and sometimes the lead ministry. Often the area is so precisely that of the individual ministry within the policy field that it doesn't warrant having the staff of a particular ministry move over to verse the Provincial Secretary for Justice on a subject and then have him negotiate it. However, there are some instances that I can recall where the lead has been taken by the Provincial Secretary for Justice, where we all combine.

One of those I can give you as an example is that some of the provisions of the Young Offenders Act have been made under his lead. He, and maybe the lead minister in that particular area, have gone down to Ottawa or some other place to do the negotiating or at least the receiving of information.

Sometimes somebody will make a pitch, say, for funding for a particular project. This goes to that secretariat. The secretariat discusses with the different line ministries whether the project should be funded. It does perform a function in that regard, as well as co-ordinating our policy issues as they forward themselves to cabinet level and caucus and then eventually on to the floor of the Legislature, if that is the direction and impact of it.

Also, my deputy reminds me that we have two individuals on the young offenders committee, two people from the ministry who are liaison people there.

You were talking about a vote item which comes up later on, the number of deaths of detainees in police cells. You mentioned a sad experience you have had in your own knowledge. I think that is one area, too, where I express the same concern as you do. There is, like all things of this nature, a manual of procedure to follow.

We are now in situations where electronic surveillance is used. There are some people who feel that the electronic surveillance is perhaps a violation of rights, although I look at it the other way. That surveillance precludes any unnecessary death.

I have to sit with your knowledge on the same thing. Some people in our society today are arrested and do get into cells. It must be a very traumatic experience, what plays on the mind and what actions they take. When we lose a human life in a cell unnecessarily, it can't be measured in dollars. It can't be measured in the grief that comes as a result of it.

I am very pleased with the procedure used by the Ontario Provincial Police. They have many detachments throughout the province. If they are going to put somebody in the cells for a period of time, they call in an auxiliary officer, a matron or somebody specifically to sit there and watch the individual in the cell for his own safety until relieved.

I would like all situations to be watched over by humans possibly rather than having electronic surveillance with all the vagaries it entails, although I know the police forces will come back and mention the cost as well as all those features inherent in a surveillance. Like you, I think one definitely has to be more concerned with the safety of the individuals in those cells.

One area you talked about, and I said I would get back to it, was that of the police notebook. It's a touchy area because it was a statement made by a judge. I recognize that judges are in a very preserved and rarefied position in our society in that they are not often given to comment.

To comment back is perhaps taking an unfair advantage. I recall seeing the quote in a newspaper attributed to Judge Hugh Locke, where it was suggested—and I can't take the exact quote because I don't recall it—that the notebooks you have mentioned may be one-sided in nature.

I don't take that to be as negative a position as

some of the criminal lawyers have in practice in that field. I believe that somebody associated with the Criminal Lawyers Association made a comment. I don't take that as one-sided. That is what an officer is trained to do: to note those features of a crime or of portions of the crime.

When I practised in criminal law, we all used to know that there was a certain litany of items that one could say were the tabulations of an impaired driving situation. One might not then put down that the individual was a very neat dresser or what the colour of his or her clothes were. I am using that as an extreme example.

However, I am sure that where an individual makes a statement that would be exculpatory in nature, it would be such as to be in any statement in any prosecution, or a statement that we know, as per the Criminal Code, would be used in evidence. I am sure the officers are fair-minded and objective enough to put that in. I might add that I recall as a cross-examining lawyer that one had to be very careful with notebooks, always having to look at them, but all of them are designed to prevent any abuses. As you are probably aware, the notebook does not have looseleaf pages in it. They keep them for many reasons, even as a daily diary of what they are doing, so there is a chronology.

4 p.m.

If a defence lawyer wants to look at a notebook, he can see the chronology of all the events in there. I am not so concerned that the books are one-sided. I know the police try to be as fair in putting forth their information as possible; yet one has to say that in many situations it is the duty of a well-instructed defence counsel to bring out to the best of his ability those features of the defence that are to the benefit of the defence and to the accused.

I am sure that any police officer, in reading the notes, might confirm that this was an item that was to the benefit of the accused. I was taking the earmarks and the ingredients of a charge. I am sure that those who have practised more fully in the criminal law field would be able to give you a more precise use of those notebooks and possibly we could get on to that in a little more depth later on.

You mentioned visible policing, the Hickling-Johnston report for the Metropolitan Toronto Police. You used the phrase, a "stop and chat" situation, and you mentioned the foot patrol. I think that is being practised by more police, getting back, I guess, to one of the originations of policing, with the bobby on the street and the foot patrol. Indeed, even a commissioner of the

Ontario Provincial Police does this in some areas in policing small communities, where from time to time the police get out of their patrol cars and walk along the street.

If it is a full-scale interrogation, if the actions could be construed as a harassment, then naturally as Solicitor General I would not, nor, I am sure, would the Ontario Police Commission or any police chief, want the actions of their force to be in any way condoned if they were to be interpreted as harassment or interrogation that did not form part of an investigation that was in progress. I do believe the "stop and chat," as it is referred to, as a way of familiarizing oneself with the people in the neighbourhood and with their concerns may be a source of information and a way of getting that relationship, which in some communities has departed from its earlier stance, closer to its origins of the police being part of the community.

Regarding the Criminal Injuries Compensation Board, another topic you mentioned—and that is an area for the Attorney General (Mr. McMurtry), who looks after that statute and produces the literature on that—I believe the public is better informed about it. There are many posters in the jails, in doctors' offices, in courthouses and many other places, including your own constituency offices and other constituency offices. There is presently a pilot project in a particular area that is bringing this even closer to public attention. I believe we do have it in more than one language when it is produced, recognizing that there are people who do not exclusively work in either of the two official languages of the country. Since you are the Justice area critic, you might get greater detail on that during the Attorney General's estimates.

My deputy is reminding me, too, about the victim-witness program we have going on. Our representative on that committee, which is a federal-provincial task force on the subject, is Shaun McGrath of the Ontario Police Commission. They should be reporting soon. I am sure that will result in some changes in the law. The Attorney General has been very extensively involved in the victim-witness task force.

You mentioned your colleague Dick Ruston and the situation with a police chief in the area of Dick Ruston's riding, where he offered to a group of teachers, as I recall the situation, a list of students, some of whom were named and were considered, I think, to be people who might have some knowledge of drugs and might be people to be watched. There is an acknowl-

edgement by that chief that whatever he did, whatever the facts of the situation were, it was not satisfactory. He recognized immediately it was not something that should have been done and took back the lists immediately from the teachers. He now recognizes it was an act he should not have been doing as a chief of police, no matter how well-intentioned he might have thought it to be. The commission has reprimanded that chief for those actions.

Regarding the drunk driving situation, you suggested 0.05 per cent as being the legal impairment for younger members. I suspect from time to time many situations are put forward as better ways of removing people who are impaired on the highway. I am sure when the initial 0.08 figure was passed, there were many discussions on whether that was the ultimate level. From time to time there are tests going on. I recall recently hearing on the radio someone wanting people to go through a test, both for marijuana and for booze, that was being sponsored by the federal government.

We had our own Dr. Lucas of the forensic science lab, who is doing further tests on impairment with regard to marijuana. We have an Ontario task force, our Ontario Traffic Safety Council, and there is a task force on impaired driving presently, in which I am the participating minister under the direction and chairmanship of the Attorney General. All of those are presently getting more information, both statistically with regard to the background and scientifically.

Possibly there might be some recommendations on changes in the laws, both with regard to sentencing and what is legal impairment. There are certain variations in our jurisdictions now. I could not come to any conclusion as to what might be the best, except I know, and I sure you have the same feeling, when you see the amount of carnage on the road which is pretty well accurately attributed to the use of alcohol, the numbers are staggering.

I use the example that if I were to say to you that we were going to wipe out some village that contained 1,500 people, then you and I as politicians, and most citizens also, would certainly be concerned. We would be concerned, if in the next year one were to say that rather than to do it all in individual pieces, that village of 1,500 people would not be there, because that is the relationship of the numbers we are talking about, besides all the other social consequences

that flow out of a death or lesser injury as a result of drinking and driving.

4:10 p.m.

With regard to amendments to the Police Act, you mentioned the composition of commissioners. As I mentioned last time—if I have not, I have mentioned it publicly at other times—I will not hesitate to make changes when I receive the final draft of amendments to the Police Act which are being prepared presently by a committee in the ministry, headed by John Ritchie, the solicitor, with groups from the Association of Municipalities of Ontario, from associations of police and the police chiefs, municipal governing authorities who are all putting together a draft and discussing it.

It does not bother me at all that they have wanted an increase in size. I certainly would ask, if it is not a recommendation, that the size of commissions grow to five—basically, there are three members. The only hesitation I have, and it is a change I am not really leaning towards at all, is that while the municipal positions would increase, they would not represent a majority on those commissions.

As to judges, I am sure I have confirmed that I hold no brief for judges as such to be members of the commissions. Indeed, with the more recent comments on the independence of judges, it would lead me to conclude that the judges would feel more independent not working on a police commission. I am sure I can say with no hesitation that if they got into a situation where they were compromised or that conflicted with their position as a judge qua the commissioner of police, all judges on commissions would know how to handle that situation and disqualify themselves.

There are many situations in which I am sure that, for the appearance of the total independence of the judicial system, the judges would better not participate. Particularly provincial court judges, because that is by and large where a number of relationships come in, would be better served not to be assisting on those police commissions.

In no way do I want you take my remarks as saying they do not do a good job. They do do a good job. They are some of the most dedicated and hardworking police commissioners we have. It is just that one knows that it is the appearance that you are after.

You mentioned tenure of office. As you recall, back a few years, around 1977-78, there was a committee struck about the tenure of office on all agencies, boards and commissions

in Ontario. It developed a policy that people should have a maximum of six years on all agencies, boards and commissions, for all those reasons that one can think of why it is beneficial to have a limit of six years. Nearly all, if not all, the appointments are made through the executive council and the Lieutenant Governor in Council, and cabinet has used that as a guideline for six years. Many people now can have an opportunity to participate, and you get new blood when you get a changeover.

We have in some situations allowed for an extension of those six years. It is not inscribed in stone that there cannot be an alteration of that period, where many things are taken into consideration.

I do it with the recommendations I make, because there is a new policy of three-year terms for elected people. I have some staggering of the terms of individuals under the new municipal feature where at least the mayor is generally the person designated under the statute to be on the police commission, so one would not bring in three brand new people at the end of a term.

I have made recommendations for people to continue their terms where they are in some organization where there has to be some continuity, where they are, say, in the police governing authority, the police association or the police chiefs' association with some involvement on a commission or one of the organizations of those commissions, so the six years can be extended, and the term is not that precise.

Police complaints was another area you mentioned. We have not considered extending the police complaints legislation as it is in the experimental pilot project in Metropolitan Toronto. We have not—I have not and no one else has—given any particular consideration to extending that outside the Metropolitan Toronto area. When you get to the vote on the Ontario Provincial Police and the Ontario Police Commission, you might ask specifically how that is being handled.

You will note, from the answers to questions you ask when those votes are on the exact detail of the complaints that are being handled, that by and large the complaints are being handled very well by the new commissioners on the Metropolitan Toronto body.

As the minister I have recommended to a number of people who have suggested they have had certain difficulties with the police that they formulate their material and take it to the complaints commissioner. I think when we see

the first decisions—we have seen them; you mentioned one—the end product of that individual is that people will be well received.

You talked about the area of jurisdiction and used the figure in the Police Act where the minister can indicate that where a population is in excess of 5,000 the policing be carried out by its own police, rather than have a situation where the Ontario Provincial Police are the main police service for the community.

That is presently under review by the Ministry of the Solicitor General, the Ministry of Treasury and Economics, and the Ministry of Municipal Affairs and Housing, which are pulling together all of the background information to make some recommendations as to whether that figure will be changed, whether it will be that figure plus, as there is in the statute, some combination of assessment.

One must recognize that we have had a period of time when the number of smaller forces has been reduced, that a number have been removed, and that the Ontario Provincial Police provide excellent policing, in some cases in contract situations. I think you will see shortly some recommendations coming out and there might be some changes in that number.

We recognize there is a cost to smaller municipalities, and I might add there have been some changes in population. We have had some instances where originally a contract was entered into with the Ontario Provincial Police and the municipality and that contract was removed when the population fluctuated. The initial reasons for the contractual relationship were no longer there, and now they are providing policing as in other areas of the province.

On Sunday closing, the Retail Business Holidays Act and any amendments, you made some comments yesterday, and I know you had some clippings from local newspapers in the material you were discussing with me. Yes, there has been discussion in Metropolitan Toronto council—I have seen it in the media anyway—that Paul Godfrey and Mayor Lastman want to extend the present Retail Business Holidays Act so that certain Sundays during the summer months of 1984 could, on an experimental basis, be looked at for the opening of retail shopping.
4:20 p.m.

I have replied in a general way to the comments that I have seen in the media. I am not ecstatic about the request, but I will sit down and listen to it, as I would to any request. They can put their arguments.

However, as I recall, when the Legislature

passed that particular legislation it was a minority Legislature, and I think it received—

Mr. Renwick: That is why it is so good.

Hon. G. W. Taylor:—a very thorough reading and debate at that time. I think a lot of exemptions to take care of those features were put in and I believe some of the arguments that were put forward at that time still stand today.

I say that because those supporting it come from such varied areas: from large businesses, family owned businesses, labour leaders, church leaders, and just people who want leisure and some time with their families. It is not solely based on a hard economic feature.

In the legislation there are exemptions that take care of certain religions, certain businesses, certain tourist features, and also the very major option of allowing a municipality to designate certain parts of a community.

As I say, I will listen. I do not think, though, that I would be too receptive at all to making very many changes to the present legislation.

You asked me what I think of the Guardian Angels. That was a topic the last time we were here. I think I am pretty proud, and most people are, of the safety in our streets and our subways. People can ride our subways and walk our streets in safety in the evening.

I think their intrusion into our society is, at best, a pejorative slam at the services being performed so well by the police services and the security forces of the Toronto Transit Commission. It is also, I think, a misreading of our society that we need some assistance from this particular group. We, indeed, respect our laws, and have a safe society. I do not think we need the services of that particular group, well-intentioned as it might be.

When you characterize the other groups—and you mentioned Neighbourhood Watch last time; they are citizens helping citizens and, I am sure, the police, in many areas.

You heard the remarks in my opening statement about vandalism. The police are pleased to receive assistance, but I am not so sure the Guardian Angels, or similar groups, are the ones from which we need assistance.

You mentioned that emergency legislation was permissive in nature. I am sure that when it comes on for debate later in this session you will be able to tell me more of the features that make it permissive.

In preparing that legislation, the advice I received was that those places—including Quebec, where it makes some of the features compulsory—are no further ahead than us. We

are probably further ahead by making it not mandatory, by making it something where the initiative comes from the municipal level, so that the municipalities can see the merit of such legislation and of being involved in it.

Indeed, some municipalities are presently involved in it, including many of the municipalities in my riding, and it is working very well. I know the member for Sarnia (Mr. Brandt) is not here, but we also have a federal-provincial operation where the federal money is being channelled into his area for some services. I also know that there is some advantage being taken of those funds in the Brampton-Mississauga area.

You talked about the coroners and the area of organ shortages. Should we be advertising more? That is one area where the coroner has taken some initiative, and again, we are trying to get it back to the local area.

You may not have done so personally but some of your colleagues have from time to time commented on the government's advertising budgets. This ministry's advertising budget is not extensive or large. We have discussed this, because we did produce a couple of public service announcements which we have out there. I suggested that I would not want to be part of that advertisement, as a speaking, talking head, saying, "Please donate your organs."

We have seen a couple of film clips in process that have been produced on videotape—very inexpensively, I might add—using Dr. Bennett. I said that Dr. Bennett, having more knowledge of it, being the chief coroner, would be the one more suitable to make those requests.

This is in addition to a recommended plan to go out to some of the cable operations throughout Ontario, and through some of the other community projects, to integrate it more with the regional coroners and to get them initiated into community methods of applying for organs.

I am also informed that we do have the material in multilanguage documentation—I hope I am correct on that; I do not want to confuse all the different documents we do have, and produce, in multilanguages.

Of course, going back to what you said about the results you got with your community when material was given out in particular languages, I am sure it is an area recognized by the government in all of its advertisements. They try to hit as many of our citizens in as many languages as possible.

I have just received a note saying that, yes, I do have Italian documents on organ donation.

As I recall, when we had some changes in the pituitary gland section we were able to increase donations once the legislation was changed slightly. Before the member for Riverdale (Mr. Renwick) comes in, I know he was one of those arguing forcefully for changes in the legislation on the pituitary gland situation, and he brought about a change in that area.

On other items, as we move along—commercial fraud, bankruptcy, volunteer assignments, computer fraud, white collar crime, scams—as you are probably aware, the Ontario Provincial Police has a criminal investigation branch sometimes referred to as the anti-rackets branch. It is increasing its involvement all the time.

Since the last estimates, we have had some seminars throughout the province, through the Ontario Provincial Police, through one of our leading experts, Inspector Peter Campbell, on the question of computer crime and computer fraud. As you are probably aware, there is a void, I believe, in the Criminal Code, as to whether it is an offence. However, we are making industry aware of what can be done in that particular area, always increasing the amount of information.

4:30 p.m.

I know a number of courses are made available and they try to stay abreast of the courses. Some of our people are asked to be participants in seminars throughout the United States as well as Ontario. They are trying, as best they can, to stay abreast of commercial fraud.

I would mention bankruptcy because two days ago the member for Etobicoke (Mr. Philip) asked a question on that area in the House in my absence. It is one where some of the involvement is with the Royal Canadian Mounted Police. I have some more details on that question specifically. My deputy is telling me it is still being researched because I was not aware of that specific question.

Bankruptcy does come under the two fields. As one who watches it and has practised a little bit of criminal law in the field, I am sure some of those people who are on the receiving end of the bankruptcy are not too pleased. It is a difficult task at times to wonder what side of the fence a bankruptcy falls on and is one that, as you are probably aware, requires increasing technical knowledge and experience. Of course, we are obtaining those people in the Ontario Provincial Police criminal investigations branch.

The investigations, I can tell you, are taking longer with more talented individuals having to do a greater deal of work. It is necessary to bring

in accountants and people knowledgeable in the field to get at that expert information, as well as upgrade our police forces.

That basically touches most of the areas Mr. Spensieri talked about in general terms. I missed the fire safety one. You are hoping that Judge Webber reports soon. I do, too, because as each day goes on there are more occurrences. I hope we can get his report in sooner so we see what he has as recommendations to be followed.

Now, Mr. Renwick, we will go to your particular areas. One thing you asked is always a difficult one. I know that prior to my obtaining the portfolio of the Solicitor General there was always one person in the position of wearing two hats. Prior to that time it had been split. I am sure you recognize, as I do, that there are some areas that will overlap and other areas that will be totally segregated. As you have mentioned, there is that aspect.

One example you gave was that I gave the last announcements on the Hospital for Sick Children situation. Yes, that was one where it had not got to that all-encompassing feature as the earlier ones had on the Hospital for Sick Children, where it would have probably been, as it was, the ultimate responsibility of the Attorney General (Mr. McMurtry).

As you are aware, we do have a new deputy minister who is very familiar with the subject, an expert in the field of criminal law who has a knowledge of the police and police procedures. I think you are recognizing a rationalization that is taking place and will continue. Yet there still is a great deal of co-operation and a great deal of discussion that is necessary and has to take place in that field.

I am going to ask the deputy minister to explain that after I finish some of the other items. He will explain the philosophy on overlapping and segregation that we are trying to impart into the two ministries—in full co-operation, I might add. There is good-spirited competition but thorough co-operation.

I have some information—I do not have it here—you asked about on the participation of women in this ministry. Some of these are details, Mr. Renwick, but I am sure all members of the committee would be interested in them.

I preface my remarks on the subject by mentioning the difficulty of interpreting statistics. I know there are certain overall statistical pictures done of the government, which are then broken out ministry by ministry, comparing one ministry to others on what a statistical female-versus-male relationship shows. But when

you try to give an interpretation of those statistics, as you do with judicial statistics, how do you interpret them?

I have a very quick and easy answer. When you have a 4,000-individual police force which is predominantly male yet has increasing numbers of females, when you have 4,000 males sitting there, it is hard to change your statistics compared to a ministry that has 10 people and they can get 50-50. An interpretation of statistics that way is easily done, I think, for our ministry.

I will read this. In 1977-78 women made up 14.2 per cent of the ministry's staff. In 1982-83 women make up 15.2 per cent of the ministry's staff. The monitoring, recruitment and support of the personnel branch continue to work towards increasing the number of women in all areas of the ministry, including the nontraditional areas, as they express them here, such as fire safety inspectors and female engineers. There are female engineers now in the fire marshal's office.

In 1977-78 a woman's average salary in the ministry was \$11,000. In 1981-82 a woman's average salary was \$17,000. As more women move into supervisory and management positions, the salary averages will continue to increase. This movement will continue to be supported by the involvement of all branches of the ministry in career development. Since 1980, 65 women have had career development opportunities, including on-the-job training, secondment, job rotation and acting appointments. There continues to be a 100 per cent increase each year in the numbers of women involved in this very successful program.

The ministry continues to support a number of task forces within the ministry that are concerned with affirmative action and equal opportunity program areas, including a special seminar component. There are a number of detailed sections here that show the female component of the ministry by section. I do not know whether you want me to go into that detail.

Mr. Renwick: Perhaps we could have a copy of it.

Hon. G. W. Taylor: I could file a copy of that. That might be easier. I will give you one major one. The Ontario Provincial Police in uniform. There are now 99 in uniform and the nonuniform number is 667. That is why you get lopsided statistics, to give you the number.

There are approximately 39 women in supervisory management positions. Those are some of the statistics I have available for you. I

am sure that, given a longer time, they will be on the improvement side.

You put it so well on Bill C-157, the security intelligence service federally. As people with legal training, who come to this forum with a certain feeling of what is right and where the government should participate, we want to be sure of how far we want people in the policing field and the government to go, what kind of activity they undertake and to what extent. Accountability is also a feature of that.

4:40 p.m.

I think you are wise in raising these items. It was only last week that the legislation was introduced; we have received a copy of it. It has been discussed before at the federal level.

The Attorney General is now away at a federal conference of Attorneys General. However, I am sure that in the forthcoming gatherings—at the deputy ministers' level come June, and at the ministerial level, both of Attorneys General and Solicitors General, in July—the function of the security intelligence service will be an area of great discussion.

One of the main sections you brought to our attention is being presently reviewed in the ministry, and by the Deputy Solicitor General. The one you drew to our attention, which was already in our eye, was that of the participation of that security force by way of arrangement with local police forces.

We would not at all tolerate an arrangement whereby a federal security intelligence service would enter into contractual relationships, however simplistic they might be, with either individual police forces or with the provincial police forces that have a constitutional allegiance and responsibility to the provincial Legislature. This could not be tolerated.

Some of the other items you mentioned are certainly ones for consideration. Like you, I will be watching thoroughly the critics and the criticisms of the legislation, as will our federal members. When we have completed our review of it, I will be able to give a more detailed discussion of the particular sections that we did not find to our satisfaction.

I mentioned earlier that we must have discussions with the Attorney General as to those areas where we split and overlap, areas about which we will making a pitch, or statement, to the federal government.

I think that you, as you always do, so ably expressed a general concern of the public for such legislation. We know there is a need for certain areas of security, but the extent to which

we want to give it to some independent security force without accountability is one that we, as society, jealously guard. As the statute presently stands, and as the critics have said, there is a certain amount of accountability not yet evident in that legislation.

My deputy has given me a note that, at this time, he would like to make some comment on that particular statute. I would allow him that opportunity at this point, if the committee members wish, because it is a very important piece of legislation that we should all be concerned with. In its present form, it treads on more than just federal jurisdiction.

Mr. McLeod: Mr. Renwick, with respect to that part of your question relating to sections 15 and 19 of the bill, I think that, as you pointed out yesterday, those sections appear—at least on first reading—to provide for three options by which some kind of federal-provincial arrangement could be entered into.

These are: first, an agreement between the federal service, whatever its proper name will ultimately be, and a government; second, the federal service and a department of a government; and third, the federal service and a police department.

I think that we have at least progressed in our consultations with the Attorney General who, being the chief law officer of the crown in the province, we will consult with at great length regarding these matters. We are at a point where it appears clear to us that there ought not to be any contractual negotiations instituted, either by that federal service or by any other individual police force with a view to any such agreement at that level.

In other words, any such agreement, without speaking to the substance of the agreement, ought to be between whatever representative of the federal government they choose to designate and a representative of the provincial government, or at least between members of the relevant provincial government departments, not individual police forces.

Hon. G. W. Taylor: I have another note here. I think it follows into the example you gave: the federal bill, and that of the friends of PAK, and what took place. I think that just flows out of your comments and your concerns. I do not think you need my additional remarks, but that was one of the examples you gave of your concerns. I share those concerns.

Regarding your other major topic, I spoke in my opening statement about the difficulty of presenting further comment on Securicor and

Automotive Hardware Ltd. at this time. I think you thought we could act upon it immediately.

I think I have to say that there can be no hesitation in accepting the decision delivered by the Ontario Labour Relations Board. There have been certain findings of fact which one has to say, in a tribunal, are given.

There may be other discussions. You mentioned that there might be an argument put forward whether, in law, one could proceed against Securicor without Automotive Hardware. One might ask whether the finding in law was correct with regard to law.

I am not saying that it was incorrect. In fact, I think you could get me and most of my colleagues to support the finding in law as to the actions being contrary to labour legislation, ones which we would not condone: the infiltrating of a picket line and the actions of an individual after this infiltration which prolonged or, indeed, interfered with natural, lawful employer-employee negotiations. Those actions would be unacceptable to me. That was a fair finding in law on the facts.

There may be other questions as to the style and nature of the remedy, but that is something for someone else to argue before another tribunal.

4:50 p.m.

I think there is some obiter in the judgement. You have questions about the role of the Ontario Provincial Police and the Metropolitan Toronto Police. We have not completed all of our assignments, review and investigation of the entire package of Securicor and Automotive Hardware. That is the part about which I have the greatest reluctance because we have not completed our work. One might ask, "What have you been doing?" as I think has been asked over the period of time from when it initially was raised up until the time of judgement.

We did have a watching brief at the Ontario Labour Relations Board hearing and we are waiting for the final facts to come out. I am not sure—I am a bit touchy about some of the words used in the judgement—that the decision meant to say what it did say. I forget the paragraph or section. The decision said there were other tribunals that may discuss that, if I remember correctly—

Mr. Renwick: Yes.

Hon. G. W. Taylor:—and could make a finding. I am not so sure how far we can extend those words. I was not probably extending them so far as to say that there was a conspiracy.

I know that the deputy, as late as last night,

was still having discussions on this matter, still receiving and reviewing reports. I might let him add how far we are on that, the direction we are going and when we might be able to give you our final decision as to how far we will be proceeding.

Mr. McLeod: Mr. Chairman, in addition to what the minister has referred to through the last evening, I met as well this morning Commissioner Erskine, Deputy Commissioner Lidstone and Chief Superintendent Goard of the OPP. On the basis of the information made available to me, not only this morning but over the past few weeks, I think I can advise Mr. Renwick that—and I should pause to interject that we have received considerable information from the OPP—we see no basis for any suggestion of any wrongdoing by the registration branch of the OPP or by the Metro police industrial liaison service, nor do we see any failure on their part to act in any way in which they might be expected to act in the situation in question.

However, the circumstances surrounding the Automotive Hardware strike situation are the subject of an investigation by a criminal investigation branch officer of the OPP in response to complaints by the union, and that investigation is not complete at the present time, at least in the sense that the officer conducting the investigation has not yet received his final advice from the crown law officers in the Ministry of the Attorney General who have been assisting him in the ordinary way.

In addition, as I think the minister has earlier indicated, the registration branch of the OPP, with the assistance of the legal services branch of the Ministry of the Solicitor General, has been, and still currently is, considering the question as to whether there should be a hearing under the relevant statute with respect to Securicor's licence. Accordingly, I think I am in a position where my advice to the minister, and we have discussed this earlier, and my response to your question, is that final and substantive answers to the questions you raised yesterday in relation to this matter must await the completion of these processes I have referred to.

Hon. G. W. Taylor: The fourth and last item you had as critic, Mr. Renwick, was about statistics in the policy field. There are two sources of statistics. I know the Provincial Secretary for Justice (Mr. Sterling) produces statistics and provided you with that material last year. Then I think there is the federal Canadian Centre for Justice Statistics, which produces them for Statistics Canada.

We are a participant in providing information

in both those areas. Having provided them, I would come to the same conclusion as you do, how do you interpret them? Do you say they are bald? You can show increases and decreases, but how can you relate them to society and how can you formulate your plans to change direction in society? I guess from some of them we cannot and from others we can.

If you are using the bald statistics of increased traffic situations, impaired driving situations, sometimes the Ontario Traffic Safety Council comes forward and says: "This is taking place. We are showing you these bald statistics. Can you correct that by way of legislation?" The answer is sometimes yes and sometimes no.

I have the same difficulty as you in the overall administration of justice. When you used the examples, more were arrested, more convicted, and more were put in jail, what is the end product? I guess this is the field of the sociologists. I am sure I would have the same difficulty you have. We try our best to interpret them, or have people interpret them.

We are primarily involved in providing law enforcement statistics to Canada in the justice statistics area. After we get to that point, I cannot say how they are all interpreted to change overall the social significance of creative law in Ontario. It is scary to you and scary to me. Other than those general comments, I cannot say more, and I am sure you raise that question each and every year, as you have done this year, about how those statistics should be interpreted.

Those are the major topics you raised, Mr. Renwick. I hope I have answered them for you.

The other area you mentioned was the Young Offenders Act, and that is progressing through the different ministers. I believe the provincial secretariat is the lead ministry on that now. There is still some criticism of the federal government as to the implementation, the date, the time, the economics of it. It is under the auspices of the Provincial Secretary for Justice, and we are accommodating and preparing ourselves to the law as changed in the ministries that are precisely involved, Correctional Services and Community and Social Services. We are taking the lead in that area.

Mr. Deputy, do you have anything to add on the present status of the Young Offenders Act?

Mr. McLeod: We have a financial person and a senior training person from the police college as our designated persons to participate in the committee the Honourable Mr. Sterling as provincial secretary is co-ordinating. We are

really in a rather significant dilemma in that we still do not have an answer from the federal government with respect to the cost-sharing formulae that are going to be applied, yet their projected date of implementation of October 1, 1983, is fast approaching.

5 p.m.

It is our estimate that it is going to take a period of one year, after we know the cost-sharing formulae, to put the necessary processes in place, and not only in so far as police involvement is concerned. The same position is being taken by the Ministry of the Attorney General and the Ministry of Correctional Services.

So as long as we are left in that position, it is a very difficult one. I think there has been a lot of effort put forward by all three ministries in the justice field that are involved. We can only hope that we can get a more satisfactory answer from the federal authorities.

Hon. G. W. Taylor: That is basically it, except for the individual questions by the other members. Those are the answers to the two critics. Al Kolyn asked a specific question on the filing which has been done, which I believe is the filing of the material Mr. Renwick commented on.

Mr. Gillies asked a question on domestic violence. He asked how many municipal police forces had acted upon the earlier memorandum that I and the Attorney General gave to the Ontario Police Commission, asking for more severe—not using the word "severe"—action on wife battering and charges to be laid in that area.

I cannot give you any statistics, or tell you who has acted on it. We will get back to you. I do not have any material.

The deputy reminds me that as a result of the question we have given a memo to all Ontario chiefs of police to provide us with that information at this early date. It has not even been a full year since the earlier memo went out.

We do know that the forces in Hamilton, London and Windsor have been keeping some information, and have projects in place to give us back some information.

Mr. Chairman: I believe that Mr. Spensieri was next.

Hon. G. W. Taylor: As a questioner? You were asking about the mechanism of preparing statistics, Mr. Spensieri, and I commented briefly on it. I hope you have received the material from the Canadian Centre for Justice Statistics.

Did you get that material and that of the

Provincial Secretary for Justice? They are garnered from the Ontario Police Commission, from the different police forces, from the Ontario Provincial Police.

Some of the ways they are trying to do it is to standardize the methods of reporting and style so they can get comparative trends. There is, as you know, a chapter called "Purpose and Overview." I do not intend to read it here, but it is in that material, so you can see how we go about it.

I do not think there is any magical formula. We are just trying to produce and provide the most reliable information that we can, relating to crime and its enforcement in the province. A lot of it is done through the Ontario Police Commission.

Mr. Stevenson had a question about the confusion as to the death of an elderly individual. The fact that she had been murdered was discovered later on by the undertaker, rather than at the time of the coroner's check.

I can only say that it was just one of those situations that was basically missed at the time of the initial examination. Her medical history would have led one to conclude that the cause of death initially stated was consistent with it. However, it was investigated more thoroughly by the chief coroner as a result of the findings of the undertaker.

It has now been more thoroughly reviewed by the chief coroner, and it may be that something will result from this event in one of our procedural features under the Coroners Act. The coroner's activity may be actively reviewed by a provincial review council. It is just one of those unfortunate situations that occur that we do not like to see occur. There was some medical history that led the coroner to that initial conclusion.

Mr. Stevenson had a question on what he described as high-tech developments taking place. I have about three pages of high-tech information here. I think you may be served better, Mr. Stevenson, if I were to give you copies of this and just file it.

We have in the Ministry of the Solicitor General—I had better just check. Is there anything on here that I cannot say? No? Okay.

We have a high-tech area. Through the Ontario Police Commission, there is a service provided to other police forces, as well as to our own, that keeps abreast of changes. They stay current in all the fields of radio equipment, computer equipment, mobile data terminals, and so on. You may have seen some material on that.

In the Ottawa area they have what are referred to as mobile data terminals in each cruiser, whereby you get a visual readout of the material as you would if it happened to be a video display terminal. That is done by radio. It is an experimental feature in Ottawa and, I understand, functioning very well.

I have seen them in other communities and, of course, it gets rid of a great deal of voice discussion. It is faster in many respects, and allows for a greater amount of voice transmission to be transferred to the security of that system as compared to the voice system.

We have a great deal of computerized material and use of computers in the transfer of information. I know of one crime-solving development utilized by the Ontario Provincial Police, and that is the removal of fingerprints by the use of laser light and photography. This was an innovative technique produced by the Ontario Provincial Police.

I know that through the forensic laboratories we have some of the most up-to-date equipment to assist in the scientific side of crime solving and also the most highly technical individuals who want to operate the equipment and perform the tests, so that in the field of high-tech they are moving as quickly as, if not quicker than, any other individuals in this field of communications, computers and the use of modern scientific equipment.

5:10 p.m.

I will file that with the chairman. Perhaps you could make copies of that. As we progress, there are people here to whom you might prefer to ask some specific questions on details besides myself.

Mr. Brandt, who is not here—I should not say that on the transcript, of course—who has just left the room, or is just arriving—

Mr. Gillies: Too late, it is in the record now.

Hon. G. W. Taylor: He asked some very pertinent questions on the expansion of the firefighters' school at Gravenhurst. Yes, we have an expansion of the residence. Expanding the residence will enable us to increase both the number of students who can go through the school and the number of courses available to them.

Mr. Brandt, who is the parliamentary assistant to the Minister of Labour (Mr. Ramsay), if I am not mistaken, is aware of some of the occupational health and safety features that he talked about and the firefighters' equipment, in which he also has had an interest. I mentioned at the outset the amount of information and

co-operation which is available in producing new equipment. I know the member for Riverdale (Mr. Renwick) from time to time has asked for our most up-to-date information and we have provided it to him. In fact, I have a feeling I might have inundated him with material on the progress in firefighters' equipment and safety.

There was a question from the member for Sarnia (Mr. Brandt) as to requests for grants for the new equipment I have received from different municipalities, taking into consideration that there are going to be changes in the design and quality of firefighters' equipment by way of regulation. We hope phasing in that regulation gradually will allow the municipalities to budget their purchases of new equipment over a period of time, as there has been no consideration by the province of providing further funds for the purchase of that equipment.

Those basically are all the questions I received, besides those of Mr. Spensieri, which will take some considerable time—not that long—to answer. Mr. Gow, of our financial services branch, will answer before he retires on Friday.

We did have a question asked of us yesterday—it came from Mr. Renwick, I believe—as to who might be Mr. Gow's replacement. I do not have the total documentation. Has someone got that background handy?

Without keeping the suspense going too long, it's Scott Campbell, who is already in the government. He has had some background in other areas and has been with the ministry since January 1983 and will continue in the role of general manager of the OPP telecommunications project.

Scott Campbell joined the Ontario Public Service in 1972, working in the program analysis area of the Ministry of Government Services. He left this ministry in 1974 to join the newly created Ministry of Housing where he assumed the position of planning and evaluation co-ordinator. He was later appointed to the position of director, management planning and evaluation branch. He joined the Management Board Secretariat in 1977 as director, organization policy branch.

In 1981 Scott was chosen as the Ontario government delegate to the National Defence College of Canada. Prior to joining the Ministry of the Solicitor General earlier in the year, he was executive co-ordinator of the management policy division of the Management Board Secretariat.

It was announced yesterday by George Waldrum, chairman of the Civil Service Com-

mission, that Mr. Scott Campbell would be executive director of the ministry, effective June 1, 1983, replacing Mr. Peter Gow, who will be retiring, effective May 31.

Mr. Renwick: Is Mr. Campbell in the room?

Hon. G. W. Taylor: Mr. Campbell was in the room earlier.

Mr. Renwick: At another time.

Hon. G. W. Taylor: A tall fellow with grey hair.

Mr. Spensieri: Does he sail?

Mr. Renwick: Naturally.

Hon. G. W. Taylor: I do not know.

We had a pleasant conversation with Mr. Gow last night and a meeting with some of his friends. He received a few gifts and a "Bon voyage." Indeed, I am sure he will recall that in the 37 years he has been with this service he has seen many changes here. I think he intends on Friday to go out the same door he came in 37 years ago. It was the front door of this building and we did not have many more buildings at that time.

We might give Mr. Gow an opportunity, if the members do not mind, to express some of his thoughts over the 37 years. Mr. Peter Gow.

Mr. Gow: Thank you, Mr. Chairman and Mr. Minister. Yes, I have seen a lot of changes in those 37 years. When I first came here it was just this building and the Whitney Block. I did come through the front door of the Legislative Building because I did not know where I was going. I thought this was the place I was to report to, but I was politely told my office was up at Downsview Airport, so I made my way there.

I was 19 years with Lands and Forests, four years with the Treasury Board as a consultant, and one very interesting year when Mr. Carl Brannan, secretary of the cabinet at that time, asked me to come over and help put in the Committee on Government Productivity recommendations and documentation for the various cabinet committees. Then I joined the Ministry of the Solicitor General and enjoyed myself thoroughly.

I thank you for the opportunity of speaking, Mr. Chairman.

Mr. Chairman: We thank you very much, Mr. Gow, and all the best to you.

The next person I have on the list for questioning is Mr. Gillies.

Mr. Gillies: I will be brief. I want to follow up on the minister's comments about Sunday store hours. I very much appreciate your comments

that you do not anticipate any large-scale amendments to the act as it stands. I agree with that. My concern is more with the enforcement. I would like to describe a situation that I have become aware of in and around my riding, with which I have some concern.

A constituent of mine has a business just outside of Brantford, a furniture store which has an area of about 15,000 square feet. I understand last year he opened one Sunday for a Mother's Day sale. He received a visit—in all honesty I do not recall from which agency; I imagine from the Brantford detachment of the OPP—advising him, quite rightly, that he was in contravention of the act and that if he did it again he could be in trouble. He had the various fines and sanctions described to him. My constituent, being a law-abiding man, indeed does not wish to open his store again on Sunday now that he is aware of the consequences of doing so.

However, one of his major competitors also, by coincidence, has a 15,000-square foot furniture store in the town of Ancaster, and not only regularly opens his store on Sunday but, in fact, puts full-page colour ads advertising the fact in the Brantford Expositor.

Another one of these appeared, I think, within the last month. My constituent contacted me, quite rightly concerned that if this is the law, surely it applies to all. If the police agencies in the county of Brant are being quite rightly zealous in the enforcement of the act, one might hope that other police departments would be equally so.

5:20 p.m.

I have two concerns, one being that there may be a differential in the seriousness with which this is taken by various police departments. That may or may not be the case in the case of the Ancaster store. I do not know, but I put that to you.

However, a second, and possibly more disturbing scenario is that the sanctions being taken against retailers who are contravening the act may not be serious enough that the store owners see them as sufficient reason to stop doing it. In other words, if the fine levied for opening on a Sunday is, let us say for sake of argument, \$1,000, but the business generated on that Sunday is sufficient to make it worth while paying the fine, I have a concern that we may just be licensing the Sunday opening.

I would appreciate your comments on that. I must underline the fact that the businessman in my riding does not wish to open on Sunday. He wants to comply with the law, but he is finding it

a difficult situation when his major competitor is not doing so.

Hon. G. W. Taylor: I think, Mr. Gillies, you have probably hit some of the nail on the head. I say some of the nail because it is not all as you have set it out to be.

We have, through the Ontario Police Commission, which is the process I use besides public pronouncements from time to time which get reported as a result of questions in the Legislature and press releases I may send out or interviews I may do from time to time, expressed concern. The Attorney General has instructed his crown attorneys to seek higher penalties where a conviction results under the legislation. I have instructed the Ontario Police Commission to inform chiefs of police to enforce the law as it should be.

However, your view of it is one that some take. Some of the citizenry look upon a low fine as a licence. Thus, we are asking for more severe penalties. We have achieved that in some decisions. Some of the courts and judges are hitting a higher tariff for staying open.

I am sure, if I read the mind, it is the type of legislation that is overall beneficial to the society—and I am philosophising here—to better life society conditions. It is not one of those items where somebody is going to say, "I am a hardened criminal for keeping my store open on Sunday." It is one of those better life pieces of legislation which I think we are all in favour of. We hope that people will abide by the spirit as well as the letter of the law.

It is one that I acknowledge is erratically enforced. I wish it were not so. I wish it did have the same feeling and the same enforcement throughout Ontario. By and large it does, but there are those situations. There are some who disguise their operations as other operations and not as they are. I hope that the police, in enforcing laws, will look at those, carry out their investigations and lay charges.

I do not know how better to answer your question. We have instructions out to those two fields responsible for the administration of justice in Ontario to enforce it. I am pleased you have commented that your operator did acknowledge the initial request to kindly abide by the law, as is the usual practice in many areas of that nature.

Sometimes in my jesting motions, and I should not—and I preface that this is all jocular jesting—I hear of such things as conspiracy. You mentioned a type of advertising where we might get a strange combination if one were to

have a total conspiracy of the advertisers and the whole package. One might say there is a lack of intent, but when you think of methods of doing things, I say, in jest, that might be an interesting approach.

Mr. Gillies: I appreciate your comments. I would ask you, through your ministry, perhaps to reinforce this with the police departments. I agree with you, it is not a life or death matter. Quite frankly, it would not be the end of the world if the odd furniture store were open on a Sunday. However, it leaves the operator in this particular situation in my riding questioning the even-handedness of justice where he, quite rightly, wants to abide by the letter of the law and yet he watches one of his competitors not doing that. I am not using names or anything because, quite frankly, I do not think it is his wish to bring any grief to bear on the other operator. He just brought the question to me as a basic question of justice. Anything you could do to reinforce that would be much appreciated.

Ms. Fish: I have a number of questions that I hope the minister will deal with involving some of the procedures surrounding requests for information from members of the public, as addressed to the Ontario Provincial Police. Mindful as I am of your caution to my colleague Mr. Renwick on some of his inquiries around Securicor and the reinforcing of that position by your deputy, if I heard him correctly, and I haven't Instant Hansard before me, he said that an ongoing investigation now suggested that there was no basis for any suggestion of wrongdoing or that any of the procedures surrounding the various events was in any way out of the norm.

I would not wish in any way to impede, intervene or create problems with an ongoing investigation around Securicor, but I thought, none the less, of one of the areas I would like to proceed with in dealing with requests for information. Let us deal with the rather more general question of requests for information that might be directed to information dealing with private investigators I understand to be licensed by the Ontario Provincial Police. I suppose I might perhaps begin a couple of my questions just to confirm— Mr. Renwick?

Mr. Renwick: I don't mean to interrupt.

Ms. Fish: I am so sorry, thank you.

I wonder then if I might just begin my questioning to confirm whether it is the case in this province that private investigators are licensed by the Ontario Provincial Police."

Hon. G. W. Taylor: The procedure is that the registrar who grants the licence is a member of the Ontario Provincial Police. He obtains his authority under the Private Investigators and Security Guards Act. If one follows it, yes, a member of the Ontario Provincial Police is the registrar who provides for the licensing.

The next feature is that there is an appeal procedure from a decision of the registrar. If it is a no decision, that appeal goes to the commissioner of the Ontario Provincial Police, whereby a hearing has to be provided to a person rejected for a private security investigator's licence. That is a rough outline of the procedure involved.

Ms. Fish: I conclude from that that I would not be entirely at error to draw the inference, as a general member of the public, that the licensing is done by the Ontario Provincial Police. Can you tell me who sets the standards or criteria or judgement in terms of competence that would have to be met by someone who would wish to become a private investigator, as I use that term in our conversation here? In other words, what standards have to be met, who sets them and how are they set? Is it by regulation, policy or statute? Are there exams and is there training?

5:30 p.m.

Hon. G. W. Taylor: As in all things—and I am not trying to dodge your question—you start with the basic feature of the legislation itself, which sets out some criteria—not an enormous amount but some.

I will not answer your question specifically other than that. I will get you somebody here who can tell you more specifically about the procedure they follow in each and every registration so that you can be more knowledgeable on that.

Ms. Fish: Okay. I appreciate that the time is getting on today. If someone is not here, perhaps he could join the committee tomorrow. As minister, you have kindly responded to questions from other members with some printed material.

For example, if there is a test that people must sit, or some published indication of standards or criteria to be met, you might perhaps arrange to have someone bring that along tomorrow, and that might speed up the process.

Hon. G. W. Taylor: I might add, before you proceed, that you used an example in your prefacing remarks earlier. I think the deputy just wanted to correct some of the remarks, so I will let him comment.

Mr. McLeod: Ms. Fish, I am sorry. I might not have heard you correctly. However, in opening your question, you referred to my remarks earlier, giving a short summary of them. According to you, I had stated earlier that the reports and so on that we had received indicated that there was no wrongdoing involved in the situation. You used sort of general terms like that—the way I heard you, at least.

I think what I said was that the reports we had received indicated to us that there was no basis for suggesting, as Mr. Renwick had suggested in his question yesterday, that the registration branch of the Ontario Provincial Police or the Metropolitan Toronto police industrial liaison service had been involved in any wrongdoing or had failed to do anything that they should have done.

Ms. Fish: I am sorry if I was not complete enough in trying to paraphrase it. I did understand you to be confining that no wrongdoing point to the appropriate offices of the two police forces. I was also trying to indicate that I had also heard you and the minister saying that there were some investigations under way.

I want to make clear that in entering into some questions over the licensing of private investigations and so forth, I was not trying to enter into the particulars of a case under investigation in a way that would jeopardize it. That was all I was trying to say there. Rather, I was speaking to what might reasonably be described as the usual procedures or the general way of operating, and I simply want to make that clear.

Hon. G. W. Taylor: I might add, too, that when you talk about general procedures, I do have a fair number of them. Being police forces, they produce manuals of administration, police manuals. A lot of the material is in manual form with prescribed techniques.

We offer those quite frequently. This ministry, probably more than any other, has many of the items set down. As I had said earlier when I answered Mr. Spensieri's question, there is a manual of procedure that sets out what to do when you put somebody in a jail cell, so it is very particular. This provides everybody in the service with a common procedure, not that there is not some point of discretion involved in that, but that there is a procedure as well. If there is anything of that nature which I can provide you with, I shall.

Ms. Fish: That would be super. Again, if there are some already printed materials that meet my

area of questioning, I would appreciate that. I wonder if I just might continue on then and if the information is available tomorrow, why, that is fine and dandy.

If someone has successfully met the necessary criteria and standards to be licensed as a private investigator, is so licensed and goes out on some sort of assignment, what knowledge, if any, would the Ontario Provincial Police normally have about the assignment that any private investigator might have been given or might be undertaking?

Hon. G. W. Taylor: Generally none. We license people, and after they receive their licences, they go about doing their business. As long as no knowledge of actions contrary to the licensing comes to the attention of the OPP, they probably would not know what the persons are doing.

There are, and I have mentioned it before, answers to questions by Mr. Mackenzie on this particular matter in the Legislature. I set out, if I recall correctly, a fact situation. Some disagree with the procedure, and perhaps the procedure is one to be disagreed with, but it was put into place for the purpose of public safety of the individual.

A licensed security firm may from time to time tell the Ontario Provincial Police registrar, "By the way, our licensee, Mr. X, is going into an undercover situation." Informal as the procedure is, a firm may inform the registrar. This operation is primarily for the safety of that individual.

There are many legitimate situations, be it for security of property, industrial espionage, general espionage, or whatever label you want to put on it, where there is a requirement for an undercover private investigator.

I will extend that situation. Perhaps someone is to ask the registrar, "Have you a Mr. or Miss X as a licensed private security investigator?" If such an inquiry came in, I believe the procedure is that the person receiving this request by telephone, be it the registrar or someone else, would say, "Would you write us concerning your subject and we will inform you whether we have a licensed private security investigator". I think I gave this answer to Mr. Mackenzie.

As I recall my answer, that was the situation, and I have to watch this. In such a situation the registrar would then inform the licensed employer of the security guard or private investigator that he has had an inquiry about one of its employees. If they are aware that the person is undercover, they will say, "By the way, we have an

inquiry about your employee, who you have informed us is undercover."

That, I believe, is the extent of the registrar's involvement. We do not inquire as to why the person is going underground; neither do we have any knowledge of that. It is just that, for the safety of the individual, there is a procedure that is followed, which I have described.

The deputy would like to comment on one other aspect of this.

Mr. McLeod: Ms. Fish, one of the requirements of the legislation is that any person licensed under the act must, on request from any citizen, identify himself as such. People who inquire are, as far as possible, advised of that part of the statute as well. If a citizen has an interest in knowing whether anyone who he is

working with or comes in contact with is or is not a licensed security guard or private investigator, he simply has to ask. Failure of a person to identify himself when so asked can be grounds for removal of a licence.

Ms. Fish: Even if that person has been so-called undercover or whatever?

Can you tell me then—

Mr. Chairman: Perhaps if I may interrupt, that may be a good place to break for today.

Ms. Fish: That will be fine. I can pursue the questioning tomorrow.

Mr. Chairman: You have the floor tomorrow.

We are adjourned until after routine proceedings tomorrow.

The committee adjourned at 5:40 p.m.

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No. J-3

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice
Estimates, Ministry of the Solicitor General

Third Session, 32nd Parliament
Friday, May 27, 1983

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, May 27, 1983

The committee met at 11:40 a.m. in room 151.

ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL (continued)

Mr. Chairman: We now have a quorum, I think we can proceed. When we left off yesterday, Ms. Fish had the floor and was asking questions. The only other name I have on the list currently is Mr. Renwick. After those two individuals are done with their questioning this morning, I would like to move to vote 1701 and see if we can deal with it.

Ms. Fish: Thank you very much, Mr. Chairman. The minister had undertaken to collect some information for me with respect to standards, criteria and so forth for the licensing of private investigators, sorting out whether there were some annual procedures that might apply to my question of yesterday. We might perhaps start with the minister and understand what information is now available.

Hon. G. W. Taylor: Ms. Fish, we have with us this morning Mr. John Ritchie, who is a solicitor attached to the Ministry of the Solicitor General and the person who does the legal advising on this particular subject. I am sure he can fully explain to you the details of a licence application.

Mr. Ritchie: Mr. Chairman, do the members have copies of the licensing forms?

Mr. Chairman: We do have copies of the legislation, plus the application forms, which we will distribute to committee members.

Ms. Fish: Good. Can I see the things, because I think Mr. Ritchie is probably going to be speaking to them? Thank you.

Mr. Ritchie: Yes. There are two forms that have been distributed. The form with the green on it has a figure 7 at the bottom and is what we call form 7. It is headed, Application for Employee Licence under the Private Investigators and Security Guards Act. The other form, the black and white one, has form 5 at the top. It is called Application for Licence to Engage in the Business of Providing Private Investigators or Security Guards.

These forms must be filled out on an application for either a business licence or an individual

licence. Particularly with the business licence application form, they contain a lot of information.

Maybe I should get a little more basic. The green and white form is for employee licensing, that is, either private investigator or security guard licensing. It is the shorter of the two forms and sets out the basic information that the registrar requires in processing an application. The longer form, the black and white one, contains four full pages and is obviously asking for a lot more detailed information in connection with licensing a business.

As to the processing, I will start first with the security guard and private investigator form, the individual licensing form. With the private investigator, the background investigation is a lot more detailed than with the security guard. With the security guard, they are going to check carefully over the form and follow up on anything that seems unusual or worth following up on. They are going to look at any previous file he has, including reasons for termination. Generally, they are able to do it just through the materials in their office and by checking criminal records through the police computers.

With private investigator applications, they go into a lot more detail. They investigate him at the local level. Either staff of the registration branch or other Ontario Provincial Police staff will go to places of employment and so on and generally inquire into character, behaviour and so forth.

That same type of detailed check is run with the application for a business licence—the longer form I mentioned. Again, they are going to follow up on anything that is unusual or worth following up on in that form. They are going to follow up on any files they may have on the person, including criminal record files, and they are going to do a field investigation.

Lastly, I probably should mention that there is a section in the legislation that gives the registrar pretty broad power to do any kind of background checking he thinks is warranted. That is section 7, which reads as follows: "The registrar or any person authorized by him may make such inquiry and investigation as he considers sufficient regarding the character, financial position and competence of an appli-

cant or licensee and may require an applicant to try such examinations to determine competence as the registrar considers necessary."

There is a second subsection which says: "The registrar may require further information or material to be submitted by an applicant or a licensee and may require verification by affidavit or otherwise of any information or material then or previously submitted."

So the registrar does have a broad power to do as comprehensive a check as he thinks is warranted and he will use that power, depending on the circumstances of the case. That is a general rundown of the licensing procedures.

Ms. Fish: Mr. Ritchie, as a follow-up to both the forms the minister has kindly shared with us and the section of the act you read out, I did note that section 7 does make reference to "such examinations to determine competence as the registrar considers necessary."

Can you tell me if there are any examinations that are required prior to licensing? I am looking at the rather more rigorous application, either, presumably, to start a business of private investigators or to be an individual private investigator in this rather more broad area of activity as distinct from a simple security guard.

Can you tell me whether there are, in fact, any examinations that are required? If so, what is involved?

Mr. Ritchie: There are no examinations required at the present time. The form you were referring to is the application to set up a business. It could be a private investigator business, it could be security guard business, or it could be both.

They do try to determine the person's competence by looking at the previous type of work that person might have done. If there is no one with any kind of background or ability to run a business like this, then they are going to be very concerned about issuing a licence, but they have not yet gone to the extent of requiring examinations.

Ms. Fish: Maybe I misunderstood your explanation when you passed out some of these forms, the black and white form 5, the longer one. Is that only for the person who is proposing to set up the business? Is that correct?

Mr. Ritchie: That is correct.

Ms. Fish: Then this one-page form, form 7, is all that is required for the person who proposes to become an individual private investigator, as distinct from setting up a business?

Mr. Ritchie: That is correct, but you may notice there is a lot of information recorded on the back. It is actually a two-page form.

Ms. Fish: Yes. It asks for some financial interest and education and whether or not someone has been involved with a bankruptcy. But that certainly is not nearly as comprehensive as the information sought most particularly on previous activities and experience in policing or the armed services, that is required in the form to run the business.

Is it this green form that the individual private investigator fills out?

11:50 a.m.

Mr. Ritchie: That is correct.

Ms. Fish: That individual private investigator does not then have any examination or test for competency or skill. Is the decision based on this form?

Mr. Ritchie: No. The form is a sort of starting point. They go on to various types of investigation and background checks. Say it is a private investigation—

Ms. Fish: Is that the case with form 7 as well as form 5?

Mr. Ritchie: That is right.

Ms. Fish: I had understood you to say that the background investigation was done principally on form 5.

Mr. Ritchie: It is also done on form 7 where the person is applying to be a private investigator—

Ms. Fish: Okay, because I am interested in the private investigator, as distinct from what I would call a simple security guard.

Mr. Ritchie: They do a very careful check on where the person lives, if it is an applicant for a private investigation licence.

Ms. Fish: I am sorry, I do not understand what you mean by where a person lives.

Mr. Ritchie: I mean that if the applicant lives in North Bay, they actually go to North Bay and talk to co-workers or whoever.

Ms. Fish: I see.

Mr. Ritchie: You are correct to the extent that there is no testing in connection with the licensing of a private investigator. That has been considered and it is likely to be a step in the future whenever they are able to bring it in, but they do not have it at present.

Ms. Fish: Is the possibility of establishing standard testing before one is licensed as a

private investigator now under active review and consideration? Is that what I heard you say?

Mr. Ritchie: That is true.

Ms. Fish: Can you give me some indication of when a report might be expected in that regard? Perhaps I should direct that to the minister. You raised it, Mr. Ritchie, so I was directing it to you.

Mr. Ritchie: I guess I have been talking to the registrar more frequently on this. I do not know if the minister has been privy to it or not.

I would hesitate to predict, because there are so many variables. The registrar has a fixed budget and he is trying to determine his priorities. In the past years, he has had a lot of requirements for investigations—he would like to do more in the way of inspections—so he is trying to balance out what is the most valuable way to use his resources.

I do not think that he has any immediate plans to go the testing and training route. I think that is a longer term goal.

I am just saying, not in the next year, but probably in the next two years.

Ms. Fish: Okay. I wonder if—

Hon. G. W. Taylor: If I could interrupt there, we have had informal discussions with the Ministry of Education. We asked them to suggest ways in which further education or testing could be done and whether they could accommodate that.

The Minister of Education (Miss Stephenson) has reported back to us that it is possible. They could set up courses to prepare people for security guard work through the community college system. It has been canvassed. It is one of those items we are considering.

Indeed, the delay in the present legislation is probably a result of trying to bring about some changes, particularly in the educational field.

Ms. Fish: Minister, we discussed a little bit yesterday the extent of knowledge that the police force may have about the location of a private investigator on the job. We reviewed the matter of private investigators going into what I guess, as a layman and occasional watcher of TV, I would call undercover assignments.

If I heard you correctly, my understanding was that it is reasonably common—or not uncommon, if we phrase it that way—for firms that have investigators going on an undercover assignment to inform the Ontario Provincial Police that so-and-so, who is a licensed private investigator, is on assignment for that firm.

You mentioned—again if I heard you correctly—that you had had an exchange with

Mr. Mackenzie in the House on the matter of inquiries that may come forward about whether so-and-so is a licensed private investigator. I would like to return to that.

I think I heard you say that the normal practice is not to treat any inquiry, other than a written one.

I also thought that I heard you say that, in the normal course of events, on presumably checking that name against the list of licensed private investigators or whatever normal procedure would be followed, if there was a notation there that that particular person was on an undercover assignment, the private investigator's firm would be notified that there had been an inquiry. Did I understand that correctly from yesterday?

Hon. G. W. Taylor: Yes.

Ms. Fish: Can you tell me whether the reply to the inquiring member of the public occurs before or after the private investigator's firm is notified that an inquiry has been made about the person in question?

Hon. G. W. Taylor: It would undoubtedly be after. That is one of the safety factors of this procedure. The safety of the individual is the primary concern of the OPP, so the private investigation firm is informed that there has been an inquiry. We then send back a reply to the person inquiring saying, "Yes, this named individual is a private security investigator and is licensed to or employed by—." I presume that would be the general reply.

There would be a time lag. Part of the reason for requiring the written request is to produce that time lag. It also allows us to know who is making the inquiry. I have not gone into that in any detail, but that is one of the reasons.

I forget the section of the statute they work under. What is the section they use as the authority for that?

Mr. Ritchie: Actually, Minister, I do not think there is any section. This is a policy that they set up. As a matter of fact, they set it up on my advice. It is a procedure and a policy; it is not actually based on the legislation.

Ms. Fish: Okay. So that is a policy then, as distinct from legislative requirement or regulation, and there is that lag.

I heard you reiterate again this morning that part of the reason for notifying the firm of private security investigators about the written request before replying to the member of the public who made the inquiry, is based princi-

pally on a concern for the safety of the private investigator involved in the undercover operation.

I would like to pursue that, because I had the impression from yesterday's remarks that you were indicating to the committee that the OPP has no particular knowledge of the specific activities or assignment or otherwise of any private investigator who may be undercover or may not be undercover.

12 noon

Hon. G. W. Taylor: That is correct. It is not a requirement that they pass on the information that somebody is going undercover, neither is what they were going to do something we would ask about or want to know.

Ms. Fish: On what basis then would there be a dominant view, because I think that is the only way it can reasonably be described, that an inquiry from a member of the public as to whether person X is a licensed private investigator is somehow equated with the threat of safety against that individual should that individual be undercover?

Hon. G. W. Taylor: I think that would be one of the major considerations for setting up the procedure in the first place, as well as, the deputy informs me, some consideration being given to possible breaches of the peace.

I think one has to acknowledge that when a private security investigator goes undercover—and I do not know all the situations where they are required to do that or may do that in their employment that are undercover situations—one of the major areas happens to be that of preventing theft in the industrial work place, preventing theft of materials, industrial secrets, etc.

Depending on the magnitude of the operation they are investigating and on those whom they are potentially investigating in that situation, being one of caution, they concern themselves with the safety of the individual in those particular situations.

Ms. Fish: My question flows from the fact that we are hearing repeatedly of concerns for the safety of the individual. Why would we presume and why would the process presume that a request for information as to whether or not so-and-so was a licensed private investigator, licensed by the Ontario Provincial Police in this province, equates to safety, if the force has no knowledge of the assignment, save and except that so-and-so is undercover, and the force in licensing takes no responsibility for the actions of that private investigator in the sense that the

act of licensing does not automatically equate to exactly what would be undertaken?

I ask that question because I am very hard pressed to understand how there could be a presumption of safety of that individual in answering an inquiry from a member of the public, unless there was some reason to believe that member of the public was either engaged or likely to be engaged in serious criminal activity that would lead to a question of safety on the part of the private investigator being brought into question, which I think is an interesting presumption, or in the alternative that the private investigator undercover is likely to be engaged in acts that might be in contravention of the Criminal Code and, if not the Criminal Code, might be in contravention of provincial legislation, or might be of a sort that could be described as perhaps incitement or agent provocateur, in such manner that emotions would run high and that the likely expected result or the prognostication would be that if advice were provided to that member of the public, that member of the public would be so incensed that he would turn around and cause physical harm to the private investigator.

My difficulty is that I do not see how there is a presumption that harm would flow unless there was some knowledge of the work undertaken by the private investigator. If there is no knowledge of the activities or a presumption that those activities are in complete accordance with all of the legislation that would normally govern the activities of any citizen in Ontario, then where is the presumption of safety to life and limb of the individual investigator whose agency has advised that he happens to be undercover?

Hon. G. W. Taylor: First of all, and it is the question I asked John Ritchie, a security guard or a private investigator, when asked, under the legislation has to inform someone—I believe I am correct in this, and that is what I was getting from you, John—that he is a private investigator.

Mr. Spensieri: Whether he is undercover or not?

Hon. G. W. Taylor: Whether he is undercover or not. If he has a frontal request, "Are you a private investigator or not?" under the statute there has to be a transfer of that information. Under subsection 25(2), "Every private investigator shall, while investigating, carry on his person a prescribed identification card issued to him under this act and shall produce it for inspection at the request of any person." That feature is a part of it.

If you move back to the part where you are asking why we would make the calls and why we would have a presumption of harm coming to anyone, it would flow from the fact that the employer would initially give us, we would suspect, that information. Experience would indicate that to us from an employer saying to the registrar, "By the way, individual X is going to work undercover." That bald information would indicate to the registrar that there would probably be no reason to give us that information except where there was possibly a concern for the safety of that individual.

Knowing the background of the police, knowing how they work and the areas in which they work, even when their officer is going into undercover operations there is always an element of risk or harm to that individual.

Ms. Fish: For police?

Hon. G. W. Taylor: For police as well. If they were to do undercover work, it is—

Ms. Fish: Heavens, I quite agree, but I think that the training and certification of our police forces are really considerably more than the overseeing and licensing of private security investigators we discussed this morning. I am sure you would agree.

Hon. G. W. Taylor: I agree with that, but what I am indicating is that the mindset, the concern and the background of the registrar and the police would say that when someone goes into an undercover situation—and I think the label itself, "undercover"—that leads to an element of risk and concern for that individual.

Therefore, if a company provides the registrar with the information that one of its private security investigators is going to do some undercover work, if there is an inquiry about that individual from any source—and that is where the element of concern comes in—the registrar would inform the private security investigating company that there has been an inquiry and let the company decide what it wants to do.

We are informing them there has been an inquiry. Since they were concerned enough to give us the information that they have someone undercover, our concern would be that we would pass on the information if there has been an inquiry about that named individual. It is primarily for safety and concern. I think it is a minor amount of presumption, but one that is encapsulated in the word "undercover" and in the background of knowing what that could result in.

Ms. Fish: But that does not speak to the section you have just read to me with respect to a requirement that the private investigator shall identify himself, even undercover. That is fairly precise and strong language. Mr. Ritchie, I know you will agree, having discussed on occasion with me the differences between "may" and "shall."

Mr. Chairman: Ms. Fish, if I can interrupt here, after the minister is done with his immediate response, we do have two requests for supplementaries on this particular point which I would like to have.

Ms. Fish: Fine. I will yield to supplementaries.

Hon. G. W. Taylor: The deputy is going to answer some of your questions, too, on how this developed.

Mr. McLeod: It goes back a number of years to long before the minister was in the portfolio.

As I understand it, Ms. Fish, and this may help to appreciate the way the practice developed, five or six years ago the private investigator and security guard companies came to the government and said, "Your subsection 25(2), the requirement that you 'produce on demand of any person,' is too difficult for us in those situations where we have an undercover person where we perceive that there is some risk if he is identified as a private investigator." It could involve a major theft or whatever it may be. They were saying, "Look, our people are in danger, even with the possibility of being killed."

12:10 p.m.

Government said: "No, it is essential that we have this requirement that you do produce that identification. But as a solution to your concern, in those cases where you believe that your undercover person may potentially be in some danger, we will offer you the warning advice system," that the minister has described.

So, I do not think it is quite accurate to say that in every case there is an undercover operation we are presuming that the person is in danger. The onus is on the security company to let the registrar know that they have the person undercover. Presumably the security guard companies and private investigator companies are going to be most concerned about letting the registrar know in those cases where they perceive there is some danger.

That is basically how this practice developed. The government thought at the time that it was essential to reject the submission of those companies that 25(2) be amended or taken out. That is the solution that was arrived at.

Ms. Fish: I will let others come in on supplementaries. I can pursue this later.

Mr. Kolyn: I would like to go back to Mr. Ritchie.

If I applied to be a private investigator in a security firm now, under what circumstances would I, as an applicant, be refused?

Mr. Ritchie: Would you, as an MPP, be refused?

Mr. Kolyn: No, I meant as an ordinary person.

Ms. Fish: Under no circumstances would you, as an MPP, be accepted.

Interjections.

Mr. Ritchie: You want to be an individual private investigator—

Mr. Kolyn: That is right.

Mr. Ritchie: —and the question is on what grounds you might be refused.

You might be refused if you had a criminal record, depending on what it is. You might be refused if you filed a false application. They get quite a number of false applications; that would be another ground. You might be refused a licence, possibly, just because of a very poor work record. You know, maybe previous employers terminated you because of a poor work record or something similar.

It could be all sorts of almost extraneous things, like hanging around with people who have criminal records. There are many grounds on which they might reject you as a private investigator, but primarily the two main ones are a criminal record and giving false information on an application.

Mr. Kolyn: I just want to make a comment, if I might take just a minute of the committee's time, on Ms. Fish's concerns about undercover work.

A number of years ago I knew a young lady whose basic job was to travel for a certain company that had a chain of grocery stores across Ontario. Wherever they had problems, they used to bring her in as a cashier.

Under those circumstances, if you are dealing with a lot of people and you are a sort of intruder trying to find out who is pilfering, I would think it would be of great concern for anyone to be inadequately protected when she is really doing her job.

They used this young lady primarily in that function and they also used her as a shopper, going in and out, and checking whether the cashiers punched the money into the till and

things like that. She was quite adept, but she said there was considerable risk if the employees found out that she was the one who sort of ferreted out the person who was doing the unlawful act. I think in certain circumstances I can see the danger to anybody going under cover.

Hon. G. W. Taylor: The mere fact that a company informs us that one of their security guards or private investigators is going under cover—although they may not tell us, and they do not tell us, the actual work assignment—in itself flags us that there is an apprehension for the safety, however minimal, of that individual. That is the reason for the procedure that has been developed, as John Ritchie has indicated.

Mr. Gillies: I would like to follow along the line of questioning that Ms. Fish was pursuing. Let us get a couple of things on the table first of all.

As I understand it, there is a statutory requirement on the individual private investigator to disclose to any member of the public who inquires of him that he is engaged in that profession. The explanation for that is good and the reasoning readily apparent. My concern is in this procedure where a member of the public contacts an agency of the crown to try to determine whether someone with whom he has come into contact is engaged in this profession and the crown is not similarly bound to disclose that this is the case.

In most cases, as you point out, there could be a safety factor. There could be a reason why this should be the case. I know we do not want to get into the details of it because it is subject to appeal, but we have a recent precedent where the Ontario Labour Relations Board has ruled that the activities of an agency of this type were inappropriate.

We, as a government, have always prided ourselves in maintaining, in the normal course of events, a very rigid neutrality in industrial disputes. I wonder whether that neutrality is maintained when, for example, an employee of a company could have reason to suspect that at the time of an industrial dispute there is a private investigator involved in one way or another. That person makes an inquiry of the crown as to whether this is the case. He is told to submit the inquiry in writing and then the first thing we do is inform that private investigator that an inquiry has been made.

In a situation like that, I wonder why there is not a requirement which would seem to be in keeping with subsection 25(2), that the member

of the public should be aware that at such time as an inquiry is made, if it should prove that a private investigator is involved in the situation, that person will be notified of the inquiry.

Hon. G. W. Taylor: I have no difficulty in answering your question. We do answer the question. What you are asking in your hypothesis is with what rapidity and by what method do we answer the question.

I guess I could tell you, and you are probably aware, that throughout the government there are different methods of making requests for information. Some information, I am sure, you would not be given over the telephone, in a telephone inquiry. They would ask you to fill out some form, make some payment. Indeed, some will not provide you with that information.

I am sure my legal colleagues here would know that we are able to get birth certificates, death certificates and marriage certificates, but on the form, as my colleagues will know, you have to give a reason, such as that you are a solicitor and it is in a divorce action. I suspect, and I am not sure about that, that if you walked in off the street and said, "I would like to have a birth certificate," they might refuse that to you, unless you had some legitimate reason for being the holder of that birth certificate, marriage certificate or death certificate, because they can be used for other purposes.

No less in this. We are asking that if you want information that someone is a private security investigator and licensed, would you kindly write us and we will send you that information. If you went up to the individual, he also has to inform you, so the statute says.

I see no difficulty. I think you are asking with what rapidity we give that information. We do not refuse to give that information; you just want us to increase the speed with which we offer that information.

Mr. Gillies: No, I am not questioning the procedure of requiring a written inquiry. I think there is probably good reason for that. What I am getting at is this—it is a hypothetical situation and I admit readily that the type of situation I am describing is probably by far the exception rather than the rule.

Let us take a hypothetical industrial dispute in which people have reason to believe that there is an agent provocateur—what you will—involved. For obvious reasons, they may not want to approach that person directly, so they prudently decide to ask the Ontario Provincial Police whether this person is a private investigator.

12:20 p.m.

You explained the procedure to obtain the information, but in the meantime, a phone call is made to the employer of that person informing him of the inquiry. I have to assume the agent will have the information much sooner than will the member of the public who made the inquiry.

The problem we could run into there is that if the activities engaged in by this particular investigator are questionable and could be subject to adjudication by the crown in the future, that investigator could withdraw from the situation because has been tipped off that somebody is on to him. He would have been tipped off by an agency of the crown. That is my concern.

Hon. G. W. Taylor: I will try to explain it to you. The agency of the crown, the person carrying out these duties, has no knowledge of the activity the individual is engaged in. He knows the individual—by the information provided in the files—is a security agent. The registrar also knows when a private security investigator or guard has gone undercover. He does not have any other information about the activities the private investigator is involved in or where he is working undercover.

When the registrar receives an inquiry from the member of the public, he telephones the employer and tells him there has been an inquiry. That is the end of that sequence of events. At no time do we have any knowledge of the investigator's activities or what he may be doing. That is the safety feature of it that we have been discussing. I do not see how one could say that we in any way know the activities of the private investigator, or why the inquiry is being made.

Mr. Gillies: In my opinion, a very minor amendment to your procedure would address the problem. When the initial telephone inquiry is made by a member of the public and he is told to send a written request, the agent of the crown could merely add, "I have to inform you at this time that if it should transpire that the person is the holder of a licence, that person is informed of the inquiry."

Then the onus is on the person making the inquiry, whether it be a corporate manager or the officer of a union. It would put the onus back on them a bit to decide whether to proceed or not with the inquiry, when they become aware that on filing the written request for the information, the person would become aware that an inquiry has been made.

I think it is a fairly simple procedure, but I

wonder if it would not eliminate the possible conflict situation I described.

Hon. G. W. Taylor: I have explained the procedure in, I hope, simplistic terms. I wonder if Mr. Ritchie or the deputy minister might have anything to add on any flexibility we may have in the system. I just wonder whether the question you have added about that added information might even put us over the line that you fear we are already over.

Mr. McLeod: Mr. Chairman, it is important to remember that we are talking only about those rare cases where the file in the office is flagged as being one where the security company thinks there is a risk or some danger. All other inquiries are answered immediately.

We may have erred in conveying to you the impression of a long delay. Let me try with one other hypothetical example. Assume a solicitor comes into the office of the registrar with a written request and says: "Look, it is vital that I get an answer from you for this court action by one o'clock this afternoon. I want to subpoena a witness and I do not want to tip him off that I am possibly subpoenaing him in this particular court action. I do not care whether he knows someone is inquiring about him, but I do not want him to know that I am interested in that for purposes of this divorce action."

The registrar could quite easily be convinced of the legitimacy of that inquiry and the urgency of it and say, "All right, if you just wait for a few minutes." If the file is flagged, the registrar would phone the security company and say, "For good and sufficient reason that I do not have to explain to you, I have to give this member of the public an answer within the next hour, so here is your notice, pursuant to our agreement to give you notice with respect to flagged files." The legitimate inquiry of the member of the public is promptly and adequately resolved. I think you have to look at each case on its own facts.

Mr. Gillies: I appreciate hearing there is some flexibility, that you do look at it on a case-by-case basis.

Mr. Spensieri: I just want to follow up to see if I understood the deputy minister correctly. It seems to me that the statutory obligation of the private investigator under section 25 is being abrogated by a procedure of convenience, something that has been developed by way of policy. Is it correct that in every case where an agent or agency phones the OPP, that particular person

is relieved of his obligation under subsection 25(2)? Is that not open to abuse?

Hon. G. W. Taylor: No. The private investigator may never have been asked to produce identification. Members of the public who phone the OPP may not want a face-to-face confrontation with the private investigator. They may prefer to find out through the registrar.

That is where the safety feature of it comes in. We are concerned with the situations where an inquiry is made and the file is flagged with the caution.

Mr. Spensieri: I understood it to mean that if a person wished to not comply with subsection 25(2), all he would have had to do would be cover his tracks or premake his defence by having made a call that he was under—

Mr. McLeod: No, Mr. Spensieri. Subsection 25(2) creates a positive right in every citizen in this province to walk up to a person and ask that person if he is a private investigator. Subsection 25(2) requires that private investigator to produce his licence and identify himself as such right there. This system that has been set up to deal with phone calls, personal appearances and letters at the OPP headquarters in no way abrogates that section. That is still in effect and must be complied with.

Mr. Kolyn: Are you saying that when you go undercover, you have to have your licence on your person?

Mr. McLeod: Yes.

Mr. Kolyn: That seems to be rather extreme, does it not?

Mr. McLeod: It is a requirement that the Legislature presumably thought was appropriate for private investigators as opposed to fully trained police officers.

Mr. Kolyn: I just want to get a clarification while I have you here. My understanding of the intelligence—what I have been subjected to—is that when we put a man undercover, there is usually a backup in police work. They know where he is and what he is doing. That is the protection the policeman has even though there is an element of risk. Is that right?

Mr. McLeod: In part, but he also has a lot of statutory legal protection, including being able to work without a uniform, a gun or even an ID card.

Mr. Kolyn: So the only thing a private investigator has in any situation which has an element of risk is the phone call?

Mr. McLeod: The flagging of the file system.

Ms. Fish: Private investigators in our system of justice surely are not the front line of criminal investigations that place the investigators at risk and safety. Surely that is a police function.

12:30 p.m.

Hon. G. W. Taylor: Indeed, there is no difficulty in that, but as you heard me explain and as you heard from Al Kolyn, and I am sure John Ritchie and the deputy minister can explain, there are many situations in our society that require the services of private investigators and also the service of private investigators in undercover situations. These situations may at some later stage involve the services of police officers, but at some of the earlier stages the services of a private security investigator may be involved.

I give you the one primarily of theft of equipment product lines in an industrial situation. I say industrial, but there are many other situations, commercial, etc. I am sure if you were to talk with any of the major department stores or warehousing operations, one of its biggest costs would be security and breach of that security. They often use people in what is called an undercover method, but I am sure they use people who are watching others to make sure that the amount of pilfering and theft is reduced or to catch the individual by securing evidence to prosecute the individual.

Ms. Fish: I would simply draw a considerable distinction between that sort of activity and undercover criminal investigation undertaken by members of the police officers in this country. That is the point I was making with respect to the differences in backup that might be available and differences, if I might say, of vulnerability on the part of the individual officer in question. I am sure you would agree that there is a substantial difference.

Hon. G. W. Taylor: I can agree with you, but I also know of situations where some of our undercover operations with police officers singularly involve very lone operating individuals. There is not a lot of backup and there may not even be the backup that a private security investigator has in this particular situation, as meagre as it is. You can draw many examples from it.

Ms. Fish: I return again to the fact that you have said repeatedly, and it has been reinforced, that whereas, presumably, when the OPP send an officer in in an undercover criminal operation investigation, there must be someone in the force who knows fairly well what the conditions

and circumstances are going to be, what the nature of the assignment is, and makes reasonable judgement as to the level of safety or vulnerability or otherwise that particular member of the force is exposed to.

Yet we are dealing with undercover private investigators, licensed by the OPP, who are at the discretion of the individual private investigation company without, apparently, any judgement on the part of the OPP and just a list or red flag file as being undercover with a presumption that that assignment places that person at risk and that the risk is particularly noted should there be an inquiry from a member of the public as to whether that private investigator is indeed licensed.

I would turn to the conundrum I noted a very short time ago, which is that if the OPP has no knowledge whatsoever of the assignment of that particular undercover private investigator, then how and on what basis can the presumption of safety or a concern for safety be made? How is it that when a member of the public in Ontario makes an inquiry, in my view legitimate, as to whether or not an individual has been licensed by the Ontario Provincial Police, an agency of considerable respect and authority, when he comes to the police, perhaps as distinct from that individual person he thinks might be the undercover operative, precisely because he prefers to deal with the inquiry with the proper police authorities in this province, then that person is told he must produce the inquiry in writing and is then given the answer? But meanwhile the information that an inquiry has been made and, if I understand your deputy directly, who made the inquiry is first conveyed to the firm that has hired the private investigator?

I say again that I think that procedure would be absolutely appropriate if what we were saying is that all private investigators are at all times engaged in completely lawful activity and that we condone the activity. Also that at all times we have reason to believe the inquiries from the members of the public are inquiries from people who are likely, on receiving the advice that so-and-so is indeed a licensed private investigator undercover, would move to some physical harm to that private investigator, i.e., a presumption of likely illegal activity on the part of the member of the public making the inquiry.

I simply cannot understand how we would institute a procedure that would proceed to presume all of those things when we are saying that we do not know anything about the assign-

ment, that we are at a distance, that we wash our hands, that it is not our responsibility to certify whether or not the undercover private investigators are engaged in lawful activity or whether they have gone over the line, be that a question of a violation of the Criminal Code or any other provincial statute. The ministry and the Ontario Provincial Police are surely as equally concerned about provincial legislation as it is about federal criminal legislation.

That is the reason for the questioning. I continue to believe that there is something very odd in the way things presume upon the question of safety and the likelihood of a member of the public in this province making an inquiry of its own police force. I find that very odd at a time when we are being told that the police force in no way certifies, reviews, oversees or in any other fashion is responsible for the activities of a particular private investigator.

I might close my line of questioning by simply asking how many private investigators are licensed in this province? How many do we have?

Hon. G. W. Taylor: During 1982 licences issued to individuals totalled 29,748 compared to 32,096 in 1981, a decrease of 2,348. As of December 31, 1982, there were 13,382 security guards, 1,118 private investigators and 937 dual licences in effect.

Mr. Renwick: What is a dual licence?

Hon. G. W. Taylor: Dual licence would be somebody having a private investigator and a security guard licence, if I am not mistaken.

You asked me, Mr. Spensieri, about agencies. As of December 31, 1982, there were 336 agencies and branch offices licensed under the Private Investigators and Security Guards Act compared to 299 in 1981. Of this number, 73 agencies were licensed to provide security guards only, 125 to provide private investigators, and 138 to provide private investigators and security guards. Those are some of the statistics you have asked for.

12:40 p.m.

Ms. Fish: Thank you. I have no further questions.

Mr. Renwick: If I may say so, I appreciate the clarity of the questioning by the member for St. George (Ms. Fish) on that point.

Hon. G. W. Taylor: You are not positive about the clarity of the answers, Mr. Renwick?

Mr. Renwick: The conundrum remains.

I want to speak just very briefly, and these are

not question-provoking remarks in the sense that there is any specific motive behind them.

My question related to women in the ministry. I am not interested in clobbering the ministry or comparing it with any other organization of any kind. All I thought was that it would be important that we in this committee have from the ministry at some point, now or when the estimates are over, a sort of format way of looking at, in the best and most informative way we can, the statistical information with respect to employment in the ministry, which would provide a standard so that, a year from now, when the next estimates come along, we could say, "This was the state last year; this is the way it is this year." That was the point.

I am not trying to dictate how the statistics should be made for comparison or anything else. I would just like you to give some thought to preparing for members of the committee a standard presentation which next year you would include in your estimate material, so we have a basis of comparison to see where we are going. That is all I want.

Hon. G. W. Taylor: I have no difficulty with that, Mr. Renwick. Indeed, it is ordinarily part of the reporting procedure of a ministry. My earlier comments, I guess, led you to that conclusion. I know that statistically, if you compare our ministry to others, the trends are not—

Mr. Renwick: That is precisely the point. I am not interested in that. I am thinking that next year it would be interesting to look at comparable figures.

Hon. G. W. Taylor: Within the ministry.

Mr. Renwick: Within the ministry, with whatever skill you have in preparing and presenting it. I would like it, and I think each member of the committee would like it, not before the estimates end, but maybe afterwards you could think a little bit about how you want to present it, give it to us and then next year we could look at it without getting into an argument about the comparative form.

Hon. G. W. Taylor: I, like you, hope there will be an improvement.

Mr. Renwick: Yes.

The second thing, sir, is this article by John Eleen, who is the research director for the Ontario Federation of Labour. I circulate it simply because I wanted you to understand the position of the organized labour movement on the question of store hours, which is substantially

the position the New Democratic Party came to some years ago.

I specifically checked with him about it and I want you to know that the position which you are taking is one which we support, subject to a couple of positive things which he thinks should be dealt with, namely, the question raised by the member for Brantford (Mr. Gillies) yesterday about some method of avoiding differential enforcement provisions within neighbouring municipalities or communities, which causes some problems. There is a recommendation here that it should be province-wide.

They are concerned about this encroachment on the effectiveness of the bill through the disguise of tourist areas, would like to have it restricted to resort areas, want to make certain that it is not an opening for the chains to be allowed to be opened, and that there should be minimum personnel and space regulations—for example, that only three employees should be on duty.

I am not asking for an argument or a discussion about it; I just want you to have this and to know that it is the position of the Ontario Federation of Labour. It was published in the *Toronto Star* on April 10 last.

Hon. G. W. Taylor: I might add that one might characterize as a dichotomy of the groups how they come in and support the present legislation. I can tell you that the federation of labour, along with the major shopping chains and other groups, all come in together as a concerted front to preserve the legislation as it is.

As I mentioned yesterday to the member for Brantford, it is not so much a piece of law as a lifestyle and a degree of social consciousness that we have about the way we want to conduct our lives in this province—for the protection of all people, those who work and those who have to compete. Some of the people who are proposing changes or an easing of the legislation have labelled me and some other people with rather unpleasant labels.

I am willing to listen to any arguments. One headline said I was "cool to any changes," but it is a matter I would discuss with my cabinet colleagues. John Ritchie, who works on this legislation and the material that comes in and who is here at the table, knows that we have a great deal of support for retaining the legislation the way it is. There may be a couple of minor amendments made, but overall—

Mr. Renwick: Immediately before we have to move on to the first vote in here, I want to

distribute a sheet. Perhaps the clerk would be good enough to distribute it to all of the members and to the minister and his advisers. I believe the figures to be accurate and they illustrate something which should be of concern to the committee with respect to the actual finances of the ministry. I would like to have it pointed out to me if somewhere or other I am in error.

This is a preliminary comment. Opposite the figure 1980-81 you will see two figures—\$191,755,356 and below that \$191,183,956. This has nothing to do with the substance of my remarks, but I do want to point out that in the 1981-82 estimate book the ministry total for the 1980-81 estimates were said to be \$191,183,956. However, in the 1980-81 estimate book, the 1980-81 ministry total was listed as \$191,755,356.

Some time I would appreciate if somebody would tell me whether or not that was a typographical error, or whether I have misread something. There is no need for an immediate response to that. I do want you to look at what has happened. In the light of your opening statement, sir, the heartening evidence that those involved in this crucial field continue to increase productivity within the budgetary challenges of restraint—you placed before us the limited increase in the estimates this year over last year—I would ask the committee to look, if they would, at the estimates starting at the bottom.

The estimates for the year 1978-79 were within range, \$167 million as compared with an actual of \$167.5 million. In 1979-80 we have estimates put before us of \$174.5 million, and we find that expenditure was actually \$186.5 million, an increase of roughly \$12 million. In 1980-81 we have estimates of about \$191 million, given the discrepancy to which I referred, and an actual expenditure of \$208 million, which is an increase in the neighbourhood of \$19 million between the estimates and the actual expenditure.

In 1981-82 we have estimates of \$225 million and we have actual expenditures of \$247 million, which is on my calculation something in the neighbourhood of an increase of about \$19 million between the estimates and the actual expenditures. In 1981-82 we have estimates of \$225 million and we have actual expenditures of \$247 million, which from my calculations is a differential of something over \$22 million.

12:50 p.m.

My question to the minister on the global look at his estimates, is what does he have to say

when he comes before us with 1982-83 estimates of \$284,597,000—we have not as yet got the actual figures for 1982-83—and then comes before us in 1983-84 with estimates of \$294 million? What is his projected actual for 1982-83?

In other words, I think that while one can always understand that an estimate is an estimate and the actual is the actual, the creeping differential between the estimates and the actual should be a matter of concern to this committee, if these figures are correct. I think these figures are correct, but if I am not correct, I know the ministry officials will correct them.

Hon. G. W. Taylor: Let's treat them as accurate at this time. I have Mr. Lorne Edwards here, who is our financial director. I can give you some brief outline on why there are changes between the estimate and actual and he can elaborate on it. Going back through history, he may need more detail.

One of the great variables is that the greatest percentage of the total ministry budget is in salary. There would be some increases in salary. The other feature of it is the Ontario Provincial Police who have a certain amount of overtime. Between estimate and actual, when you are trying to project in the year, you do not know what situations will produce overtime and how much overtime until the year is completed. Those are two examples I can recall. I will turn it over to Lorne Edwards and he may be able to explain more variables than that.

Mr. Renwick: May I just make a comment? I think when you get in 1981-82 to a 10 per cent relation between budget and actual, you are getting on to very dangerous ground with respect to the adequacies of the budgetary controls within the ministry. Are you close to letting us have the actual for 1982-83 at this time?

Mr. Edwards: We are very close to that. In the opposition book, after the first tab, there is an actual statement of expenditures for the year. There is a note on it that they are preliminary, but we will be very close to that.

Mr. Renwick: You will be close to that. Which figure is that, please?

Mr. Edwards: We are very close to \$282 million against the 1982-83 estimates of \$284 million?

Mr. Renwick: So you are saying that whatever the widening gap was, it was eliminated in 1982-83 for practical purposes?

Mr. Edwards: That is right.

Mr. Renwick: You answered my question.

Mr. Edwards: The 10 per cent that you note in 1981-82 relates directly to the salary revisions for the Ontario Provincial Police and other classified civil servants.

Mr. Renwick: I understand there is an explanation for it. My concern was at the widening gap and I am glad to hear that it has been answered.

Hon. G. W. Taylor: You might add, Lorne, we received the 70 additional personnel for the fire safety program. What year do they start showing up?

Mr. Edwards: A portion of the cost is in 1981-82 and the full cost for a full year would be in 1982-83.

Hon. G. W. Taylor: The other is in the in-house increases in the size of the force.

Mr. Edwards: There are 120 extra OPP constables on for security and backup reasons.

Hon. G. W. Taylor: Management Board gave permission to increase that during the year, so the difference between estimate and actual will reflect the increase in the size of the force?

Mr. Edwards: That is right.

Mr. Chairman: Mr. Kolyn, you had a brief question, I believe, before we move on to vote 1701.

Mr. Kolyn: You have been conducting an ongoing investigation into the Carswell situation and I understand that it is not completed yet. A number of my constituents have posed a question to me and I really could not answer it. I am just going to take this opportunity of submitting it to you and you can address it.

The basic question was how one reporter happened to be at the right spot at the right time when two garbage bags, containing torn budget drafts, were left either on private or public property. Will your investigation clarify whether it was on private or public property when it is completed?

Hon. G. W. Taylor: That is the question?

Mr. Kolyn: That is basically the question. I telephoned the Metropolitan Toronto Police to inquire about petty trespass. I am not a lawyer or anything, but the statistics I got were that in 1981 there were 2,996 petty trespassing charges and in 1982 we had 4,650 petty trespassing charges. My constituents are concerned about petty trespass. Would you be making any comment in your investigations on that particular aspect of that situation?

Hon. G. W. Taylor: I have not received the final report on the investigations. When that is

received, the usual process is to consult with the law officers of the crown, being the crown attorney who is assigned to this investigation, and then come to some conclusion as to whether the evidence warrants charges to be flowing out of the evidence and what charges.

At this time, I cannot indicate to you on the facts that are presently within my knowledge what charges would follow. I guess that is the best answer I can give you. I know it is circuitous. It is not the precise one that I am sure you want, but it is the only one I can give you at this time, bearing in mind the ongoing investigation and that I do not have, at this time, any completed report of the results of that investigation.

Mr. Kolyn: I posed the question because it is of concern to some of my constituents.

On vote 1701, ministry administration program:

Mr. Chairman: Do any committee members have any further questions with respect to any item 1 through 8 in its entirety on vote 1701?

Vote 1701 agreed to.

Mr. Chairman: I think that would be probably an appropriate spot at which to conclude for today. We will resume with questioning on vote 1702 and those items on Wednesday morning next at 10 o'clock.

The committee adjourned at 12:58 p.m.

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 Ritchie, J. M., Director, Legal Branch



Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice
Estimates, Ministry of the Solicitor General

Third Session, 32nd Parliament
Wednesday, June 1, 1983

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, June 1, 1983

The committee met at 10:06 a.m. in room 151.

ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL (concluded)

Mr. Chairman: Perhaps we could start. We have some unfinished business which was raised by a few questions in previous days.

Hon. G. W. Taylor: I have the answer to one of the questions you were asking last day, Mr. Renwick, on the original printed estimates for 1980-81, which totalled \$191,775,356.

The explanation is that early in the 1980-81 fiscal year it was agreed that the Ministry of Government Services would assume the responsibility for the provision of the utilities, and some maintenance costs, for the Ontario Provincial Police district offices and the training centre at Brampton. Accordingly, \$571,400 was transferred to the budget of that ministry, and the related costs are reflected in the 1980-81 public accounts as expenditures of the Ministry of Government Services. Then there is a summary of the figures.

Also, members of the committee, Mr. Spensieri filed some 25 questions. I do not want to set a precedent for this committee or for other committees, but he has filed them. I guess I could, with the permission of the chairman, read them all, but that would use up more than enough of the time. I am sure Mr. Renwick would not want to hear me read all these.

Mr. Renwick: The moment you start, I will leave.

Hon. G. W. Taylor: That might be a deal.

Many of the questions are numbered. I have, through the services of the staff of the ministry, prepared a copy of the questions Mr. Spensieri has asked with the answers below them. They are hot off the presses this morning.

I have one copy which I will file with the clerk. Possibly the clerk could prepare additional copies for the members of the committee. That would facilitate some speed.

On vote 1702, public safety program:

Mr. Chairman: We left off last week at the beginning of vote 1702. I would now throw the floor open for questions on that particular vote.

Mr. Renwick: If you want me to be more orderly, I will. You just correct me. If any other member of the committee wants to interrupt me if I am taking up too much time, please be sure to let me know.

Susan Fish would be interested in this. A year ago this coming September, I got interested in the question of fire safety at the seven homes for the aged in Toronto. I have written to each of the homes, and I wrote to the fire marshal about it, and I have had responses from them.

I do not want to take up any time. However, I did want to let you know that I will send copies of the responses I got from each of the homes on the fire safety at those homes to the fire marshal, so he will know what I have been told about it.

I did it, not because I did not think that there was concern about it, but because there were a number of modifications and changes that had to take place in those homes. I was concerned about how long it was going to take.

Susan, Fudger House is in your riding, but I wanted you to know that I will send those copies on to the fire marshal because I am concerned about it.

I may say that I have been trying to follow along with the fire marshal on the question of arson. I would appreciate a comment about the arson question from the fire marshal at some point. Whenever I see a comment in the paper about such a situation in Metropolitan Toronto, I try to write to him and ask him about it. I do not pretend for a moment that I cover all the fires; I do not, but I have a concern in that area.

On the question of the coroners' investigations and inquests, I was concerned about the comment made by the chief coroner. He was hopeful that he could get away from mandatory inquests for deaths in jails and other correctional institutions. I hope that is not going to be the policy of the Solicitor General. Would you comment on that, sir?

Hon. G. W. Taylor: From our conversation, Mr. Renwick, I was not aware of the statement the coroner had made, whether it was in regard to jails. I know we had been discussing other areas earlier, and it is under consideration, with no final decision.

I am sure it is a conversation that has gone on many times before, and that is in regard to mandatory coroners' investigations when there have been deaths in nursing homes. As I say, that topic has been discussed before, and I am sure it will be discussed again.

Mr. Renwick: This is the news report: "If Ontario chief coroner Ross Bennett could have his way, he would do away with the law that requires an inquest for every prison death." It goes on at some length. It then says, "Dr. Bennett said he had asked the Solicitor General to consider amending the Coroners Act to allow coroners to use their own discretion in calling for inquests."

Hon. G. W. Taylor: Now that Dr. Bennett is here, he might comment on his views, and on that report.

Mr. Renwick: I would particularly like your view to be that you are not going to accede to that particular request.

Hon. G. W. Taylor: I have not heard the entire presentation from Dr. Bennett as to what his background on it is, so I cannot make up my mind on it at this point.

Dr. Bennett: This comment was made during one of the committee meetings on child abuse, just in reference to a statement made by one of the members at that time. We had been discussing it just prior to that because of the number of natural, in-custody deaths on which inquests were being held.

As a result, we looked at our numbers and found that there were 36 natural deaths in three years, I think it was, that had had mandatory inquests. A proposal was made to the minister to take a look at this to see if we could not change that. In further discussions we decided that this would not be appropriate, so it has not gone any further.

Mr. Renwick: I hope it has received the attention that it deserves, because I think it would be a very serious mistake to eliminate inquests into deaths in jails. We have enough trouble finding out what happens within the jail system on occasion. I simply wanted to make that particular comment.

Hon. G. W. Taylor: Perhaps Dr. Bennett might comment on the normal practice: what would take place, say, in a normal death, and then what he would do under statute, what precautions there might be. This would just indicate to the members of the committee that there are legal statutory safeguards in the sys-

tem as it presently exists. Could you comment on that, Dr. Bennett?

Dr. Bennett: The proposal at that time was to eliminate mandatory inquests into in-custody deaths, to leave it to the discretion of the coroner, myself or the minister as to when an inquest should be held.

This was more of a cost-saving measure than anything else, to reduce the number of inquests that we considered truly unnecessary and perhaps detrimental to the whole system. People become upset about these inquests. They are considered a waste of time in many instances.

This does not mean that these inquests would be eliminated completely. It would mean only that a determination would be made initially by the coroner. He could respond to relatives or to other persons who might have an interest in the matter and who might want an inquest. It would be like any other death that occurs in the province under normal circumstances.

Hon. G. W. Taylor: We are watching it, monitoring it, but we have no present intentions of changing the statute as it now is, if that allays some of your concern. It is a matter that it is incumbent upon the coroner to bring to the attention of the minister from time to time, as he sees his functions being performed.

Mr. Renwick: Sir, have you read the report from the Atlanta Centers for Disease Control with respect to the deaths at the Hospital for Sick Children?

Hon. G. W. Taylor: No, I have not.

Mr. Chairman: Any further questions, Mr. Renwick, on vote 1702?

Mr. Renwick: If the fire marshal is here, I would like to have a word with him about the arson question.

Mr. Chairman: Is Mr. Bateman here?

Mr. Bateman: Yes.

Mr. Renwick: Would you comment, sir, about arson in the province?

Mr. Bateman: Yes, I am pleased to comment this year. Our statistics for the second year in a row indicate a downward trend of roughly 10 per cent in the incidence of arson in the province in 1982 over 1981.

It is down in all categories, in the dollar losses and the number of arson incidents. In Metro, we are trailing a little behind the rest of the province; it is down one per cent here, rather than at the 10 per cent average.

Mr. Renwick: Are you satisfied with the staff you now have?

Mr. Bateman: I am satisfied that they are doing a good job. There are still reported cases of arson that we are unable to investigate because we do not have the manpower to do it.

Mr. Renwick: I think the Solicitor General probably heard that. There are cases of arson which your fire marshal does not have the staff to investigate.

Hon. G. W. Taylor: That is a fair and accurate statement, but I think he has determined, in his activities, to ignore some because of their dollar value. You might possibly explain the categories you set up, considering the staff you presently have; the cases you investigate and the ones you do not.

Mr. Bateman: Yes, sir. It is really a judgement call on the seriousness of the fire when it is reported to us. We like to think that the ones we do investigate are the more serious ones in terms of fraud arson, serious vandal arson, and so on. We try to limit the ones we do not get around to, the smaller incidents of rubbish fires, garage fires, or things of that nature.

In some cases, in some municipalities, the fire and police departments have assigned people especially to investigate arson. We have provided them with training, so they are able to do a pretty good job.

10:20 a.m.

Mr. Renwick: How many would you be unable to investigate?

Mr. Bateman: It runs roughly a third to a quarter of the number of incidents. It is in the neighbourhood of 500. We conducted 1,700 investigations last year.

Mr. Renwick: There were about 500 that you were unable to do?

Mr. Bateman: Yes.

Mr. Renwick: I may be naive about it. I find the statistics a little odd, without comment or explanation, sir, in your opening remarks. You tell me that there has been a reduction in all classifications of arson cases, when there are 500 in the province that are not investigated.

Hon. G. W. Taylor: I am looking at the statistics, as you are trying to do. The fire marshal has aided us with his comment that the major cases of arson are investigated by his office. However, that does not preclude investigation in the balance of them. Indeed, it is often the situation that the local police and fire departments continue to investigate those fires as arson.

Having put that information to you, how are

those incorporated into your statistics, or are they incorporated into your statistics? That may answer the question Mr. Renwick has. Are the cases that the local fire and police departments handle included in your statistics as arson or potential arson?

Mr. Bateman: Yes, they are indicated as reported arson fires. On the statistics that I was referring to, the 1,700 are the arson fires that our office investigates.

Mr. Renwick: I do not want to belabour the point, sir, but would you perhaps look at it from the point of view of reporting to the assembly next year? The latest information I have is in that book. Is there a later one than that?

Mr. Bateman: Yes, there is the 1981 information. I will get you that.

Mr. Renwick: Would you get that at some point?

Mr. Bateman: We also have the statistics for 1982, which we can—

Mr. Renwick: Perhaps the statistics answer my question. Perhaps. If they do not, would you look at it from the point of view of letting us know accurately next year which fires you would have investigated had you had the staff to do so? Also, what additional staff you would require?

In the estimates a couple of years ago we went in at some length on the inadequacy of the staff. That is no criticism of you, sir, at all. There was a significant increase in the estimates for 1982-83 over 1981-82. However, there is only a marginal increase in it this year, and I am still concerned about the awareness of the fire hazard in the province. Is there significant insurance fraud?

Mr. Bateman: It has increased slightly as an overall motive percentage of all the arson fires we investigate. It has gone up about 10 or 11 per cent, but it is not really significant. Vandalism and mischief are still by far the biggest motives.

Mr. Renwick: Vandalism and—

Mr. Bateman: And mischief.

Mr. Renwick: —mischief are the principal ones.

I am not going to take up time on the firefighters' protective equipment. We have had correspondence about that. You made your statement about it so I am not going to follow it up.

Mr. Chairman: Before you leave that particular topic, I believe Mr. Kolyn has a supplementary.

Mr. Kolyn: Yes, I was just wondering, of the 500 cases that you did not investigate, how many

of them were rural in comparison to a metropolitan jurisdiction? Would you have that statistic?

Mr. Bateman: I do not have it at hand. At best, I could only make a rough estimate. I would think that most—I would rather not guess at this time. I just do not know.

Mr. Kolyn: There was one more item. We were talking about fires. The Toronto Hilton Harbour Castle hotel seems to be beset by fires, whether they are arson or otherwise. Could you make any comments on that type of fire?

Mr. Bateman: There are two instances. They do seem to attract arson in rushes. There were a series of fires as I recall immediately after the Plaza II apartment fire and there have been another three or four fires in the past month. That is still under investigation. I do not think there is anything peculiar to the Harbour Castle that would not also apply to the Skyline Hotel, which has also had its problems.

Mr. Renwick: I will await the completion of the investigation into the deaths at the Hospital for Sick Children because undoubtedly I will have a number of comments about the coroner's investigation and inquest.

I want to say publicly that Mr. Bateman responds promptly, fully and completely with any requests I make of him and I appreciate that. I just want you to know that I have a continuing interest to make sure that you are properly funded. When you start into the laborious task of persuading the Management Board next year on your estimates, I would ask the Solicitor General to continue to improve the fire safety capacity of his ministry.

Hon. G. W. Taylor: Thank you for the comments, Mr. Renwick, I shall—

Mr. Renwick: I have no further comments on this vote other than to ask, if my colleagues would be interested, if perhaps on some convenient occasion you would take the committee for a tour of the Centre of Forensic Sciences.

Hon. G. W. Taylor: I am sure Dr. Lucas would be pleased to do that. He is in the body—

Mr. Renwick: There is no rush about it; just at some point that is convenient to the committee. I would find it interesting and I am sure others would.

Mr. Chairman: Thank you, Mr. Minister. Does any other committee member have questions under vote 1702?

Mr. Brandt: I had raised the question in regard to the mandatory change in the firefighters' helmets and some of the new safety provisions.

That question may have been covered by the minister in the earlier statement, but if it has not been, I wonder if I could raise it again now.

Hon. G. W. Taylor: No, it has not been covered. I have received correspondence from you as well as others. I am not sure I have answered any of them yet because the regulations have just been proclaimed authorizing a newer safety helmet. In the opening statement, I did indicate that I am going into the matter of the helmet as well as the other safety equipment that is yet to come.

10:30 a.m.

Since the province is changing the regulations and since the regulations will require a certain degree of quality in the clothing supplied to the firefighters, a few municipalities have requested that the province provide some portion or all of the cost of equipping the firefighters with this new, improved fire safety equipment.

My reply would be—if I can read you correctly and remember what was said in the letter—that we do provide certain unconditional grants through the Ministry of Municipal Affairs and Housing. They are considered applicable to such areas as firefighting, safety and other municipal costs—it would be grouped in that. There is no specific transfer of payment under firefighting.

We were receiving some letters that said, "We couldn't get it into this year's budget and, therefore, since it is an unbudgeted item, the province should again provide for it." The regulation has been phased over a period of time for that particular reason; so that the municipalities could get a budget for it, to provide for new equipment and phase out their existing equipment if it did not meet these standards.

At this time the Ministry of the Solicitor General has no money in its budgeting to make a transfer of payments, as such. It is generally under the Ministry of Municipal Affairs and Housing.

That is a long answer to say no. I recognize that.

Mr. Brandt: The concern I have—if I could interject just briefly on this point—is that the municipalities were a part of the negotiating process that led to some of the changes. I do not think they are in opposition to the proposed changes.

However, I do get the feeling from the submissions we have had from municipalities—primarily Thunder Bay, Windsor and Sarnia—

that their concern is that the mandatory provisions of the new changes in the helmet—the cosmetic changes that would be required in this fiscal year in particular—are going to cost some money that they say they did not anticipate. I am trying to get to the root of whether or not they had ample time and were amply forewarned about the requirement for change or if this came as a complete surprise to them.

I know a number of them accept your response on the unconditional grants from the Ministry of Municipal Affairs and Housing. The reality is that those moneys are already used for other purposes. They have not, in many instances, made budgetary provision in this fiscal year for the interim changes that are required now and for the permanent changes that will be required before 1984.

The concern is that the municipalities seem to be of the opinion that they were not given ample notice in regard to the proposed changes. I wonder if you could make any comment on that. My understanding from the Ministry of Labour is that they were involved in the discussions and that they were given ample notice. The ones I am hearing from are not saying that.

Hon. G. W. Taylor: I would say that there was knowledge of the initiatives being undertaken by this ministry, the Ministry of Labour and other groups. As to whether that knowledge was possessed by each and every councillor and each and every clerk throughout Ontario would be a question I would not want to guess on. The position I hold now is that there was sufficient indication that changes were coming, and in fact many of them were initiated at the request of the municipalities.

There is also the possibility—I mentioned phasing—of some modifications to existing helmets to bring them to the required standard. Again it may not be the total outlay; I think the figure is somewhere around \$75 a helmet.

The other feature is that they do have until December 1985, so it is not something that is all of a sudden, bang, in this budgetary year. It has at least one to two years of phasing-in time.

Some of the municipalities are going to say they already have their budgets and have not included in them the price of helmets in particular, but I am sure they have included something for firefighting in most municipalities. Maybe they cannot rearrange some of the budgets in some of the municipalities; I recognize that. However, they do have to December 1985 to make that provision.

It is a question of their firefighters' safety. We

recognize that the group which sat on this committee was representative of the different governing authorities across the province, the Association of Municipalities of Ontario, and so on. They, along with the ministry, took the initiative to change. I think one could say that it is a mathematically achievable item.

I could see a difficulty in budgeting if one were trying to guess the amount of welfare payments, or children's aid society payments. If you have 10 firefighters, and 10 helmets, the dollar figures are very easy to total in the next period of time. It is not that difficult a task to budget for, even though one can say it was not precisely foreseen. At present the municipalities are able to cope with it.

As always, we will listen to any of the positions they put. I am sure the Minister of Municipal Affairs and Housing (Mr. Bennett) will be interested in hearing their briefs on the subject, and I will, but this ministry does not make transfers for firefighting of any nature or kind.

Mr. Brandt: I agree that the magnitude of the dollars is not totally overwhelming. However, just to give you some indication of what it will cost a municipality, the number of firefighters in Sarnia, which has a population of about 50,000, totals 85. The interim cosmetic changes, those that are required virtually immediately in this fiscal year, will cost about \$2,000. The permanent changes, those that are mandatory prior to 1985, are going to cost about \$6,000.

I agree that, in the context of a municipal budget of millions of dollars, this does not sound like a large amount of money. However, it still has to be provided for. They are complaining because they have a great deal of pressure on their welfare system at the moment, and other costs that are somewhat uncontrollable.

The basic point I want to make is, were they adequately forewarned? Should they have made budgetary provisions? A lot of them have not. In a larger municipality you could quite easily be talking about spending \$30,000 or \$40,000 in extra money that they were not anticipating for what is a relatively small item: the changes that are required in safety helmets.

I will not belabour the subject, other than to say that you are probably going to get a large number of submissions from municipalities asking for some assistance to pay for this unexpected expenditure. "Unexpected," perhaps, is their interpretation of what has happened. It may not be yours, but it is certainly the position that some of them are taking.

Hon. G. W. Taylor: I fully acknowledge that I will be getting more. The usual procedure is for one municipality to pass the resolution, send it to the minister concerned, and then pass it to the other municipality, which then sends it to the minister concerned. I usually reply to all those letters from those concerned municipalities to the minister concerned.

In this particular situation, I think they would have been adequately forewarned. I think I can make that statement presently. I do not know all the ramifications of equipping municipal firefighters. You have been a mayor, Mr. Brandt, and you probably know all the details of that far more than I do.

A certain amount of re-equipping goes on all the time. I think one of the features of our tests indicated that the helmets were not adequately safe for the firefighters. I think it is incumbent upon a person acting for a municipality, in the matter of providing safe equipment for firefighters, to make that change and to provide the dollars for that change.

10:40 a.m.

Indeed, the fire marshal and the assistant deputy minister, who were involved in this committee, will indicate that some of the equipment out there now is of extremely inferior quality. Therefore, when they are replacing it, they can add greatly to the safety of the firefighters.

The helmet, by the way, is only one of the items yet to come. All the equipment is being reviewed, so if you are writing to any your colleagues in the municipal field, one might say, "There is more to come yet; kindly prepare a budget for it."

So I am again forewarning them that there are boots, gloves, pants, and bunker coats, as they are so described. All of that comes under the things for which the province, I guess as a government, feels it is providing some assistance to the municipality in the general transfer means.

Mr. Kolyn: I just have one quick question to the fire marshal. Under the Hotel Fire Safety Act, there has been a transfer of some Liquor Licence Board of Ontario inspectors to your division. Has that gone smoothly? Are you satisfied that the process is working as well as you intended it to? Have you encountered any big problems with it?

Mr. Bateman: Yes on two counts, and no on another.

Mr. Chairman: In what order?

Mr. Bateman: It has gone very well. We have not encountered any big problems.

We made a point of developing quite a thorough training course, because a large number of the LLBO officials had not had too much fire-prevention training prior to coming to us. We were a little bit slow getting off the ground with full fledged inspections, but we are completely in business now.

We have 70 liquor inspectors—former liquor inspectors; I have to guard myself on that terminology—and five inspectors who were previously with our office. They are in the full business of hotel inspections now.

Mr. Kolyn: Across the province?

Mr. Bateman: Throughout the province, yes.

Mr. Chairman: Any further questions on vote 1702? Mr. Brandt?

Mr. Brandt: Is this the appropriate time to raise the question of the proposed expansion at Gravenhurst? I guess some of it is, perhaps, already completed. I put that question on the record earlier as well.

Mr. Chairman: That question was responded to, but perhaps the minister would like to—

Mr. Brandt: I was not here. I will pick it up in Hansard; I do not want to take the time of the committee now to do that.

There were a couple of matters. Could I perhaps elaborate just briefly on the question? I was primarily concerned about the expansion that was going on at Gravenhurst, in the context of what that would do in the whole area of chemical firefighting.

I also wanted to know whether the fire marshal had, in fact, had any conversations with the fire school in Sarnia regarding the possibility of using that school for additional courses in chemical firefighting, the transportation of hazardous goods, and that whole vast field of concern.

Of course, it is a question that is relatively close to my heart because of the nature of the industries I have in Sarnia. However, I think it should be of concern to other members as well, because the whole matter of the transportation of hazardous goods and chemicals in communities is a matter of serious concern to firefighters.

I wanted an update on that, if I could get one.

Hon. G. W. Taylor: Yes. I have the assistant deputy minister here, Frank Wilson, who can give you an update as to the status of the construction of the residence. While you were busy debating in the House the other day, we were discussing some items here. I recognized

you had to debate a particular subject in the Legislature that day, so I answered in general terms some of the questions you had in the opening statements.

I think the assistant deputy minister could more elaborately discuss the Gravenhurst project and how it would fit into your questions on the community college at Lambton and chemical firefighting.

Mr. Wilson: The fire college expansion is now well under way; it started in January. The Ministry of Government Services' estimate on total construction status is that it is now around 12 per cent completed. To a layman, like myself, that means ground level. The physical form of the new building is now visible and it can proceed.

What that will mean in training is that 100 students can now be enrolled instead of 50. That enables many more departments to send their personnel for training. The specific aspect you are interested in is the fire technology course which, as I mentioned when you discussed it before, does have a component for petrochemical and chemical fires.

The fire marshal has been looking at the course content, not only at Lambton but also at the fire college, and has been in discussion with the officials at Lambton. Perhaps he can fill us in on the present status of those discussions.

As a result of your interest in this program we have been conscious of the problem you outlined in the various other small departments throughout the province. As I have said in the past, one can become competent when you find the expertise that is available. Naturally, it is more available in your area because the departments are more concerned with petrochemicals and firefighting, but one can have considerable confidence in the expertise that even the smallest department brings to a fire of this nature; on the highway in tanker trucks or on railways or storage areas.

Mr. Bateman has been in discussion with the officials at Lambton about the actual course content. Perhaps, John, you could—

Mr. Brandt: Before Mr. Bateman begins, there are a couple of things specifically that I would like to know. Perhaps he could cover these in his response.

First, on completion of the expansion in Gravenhurst I would like to know what capacity we will have within the institution there to come to grips with the whole problem of fighting petrochemical fires, both in terms of transportation of these goods and in terms of storage. They

are two different types of problem and they have to be approached in a different way.

Second, because there is some capacity at Lambton at the moment—I believe you have been in discussion with some of the principals at Lambton in regard to this problem—I wanted to know whether Lambton plays any kind of a role in your future plans with respect to covering what I consider to be an area of training that at the moment is not as adequate as I would like to see it.

So the two parts of the question are: Will Gravenhurst, upon expansion, be handling petrochemical fire training; and second, will Lambton fit into that in any kind of an overall scheme of training in the future?

10:50 a.m.

Mr. Bateman: Taking the last part first, Mr. Brandt, we recognize that Lambton does provide a very valuable training service. I do not think there will be any formal relationship established between Lambton and the fire college any more than we have between Georgian College or Seneca or Algonquin which have fire-related training as well.

Coming to the first part, I do not think there will be an overlap with what Lambton provides—I have not actually talked to the faculty of Lambton College; I talked to fire chief Cliff Hansen on a number of occasions. He is of the same view; that we can share the same space.

In respect to the first part of your question, yes, we are developing a greater emphasis which we will be able to handle in the future. It will be mainly classroom training to enable fire department officers to go back to their departments and train their firefighters in petrochemical fires and chemical fires. So we are going to put greater emphasis on that in the future with our new facilities there than we have in the past.

We will be co-ordinating with Lambton to make sure that we are not treading on each other's toes. They have a special mandate, I think, in Sarnia and Lambton county and we have a somewhat different one throughout the entire province, so we will be working together. I am sure of that.

Mr. Brandt: You indicated there will be classroom training at Gravenhurst. Will there actually be in-the-field training as to fighting tank-car fires or high-rise fires, that type of thing, in addition to the classroom training? What types of facilities?

You did not mention the costs involved in Gravenhurst. I would like to know what the

total cost of the expansion is estimated to be and whether, in fact, you will be doing outside firefighting in real situations.

Mr. Bateman: The cost for the residence is roughly \$2.2 million. We have approval for only the residential expansion. Phase two, when we get approval on that, is going to be an addition to the academic facilities. At the same time, we hope to upgrade our fireground training. We never have really emphasized the basic fireground training as one of the main purposes of the Ontario Fire College. It has been officer training. It is fairly technical and fairly professional. Fireground training is used as an illustration—more than actual training in evolution—of how to handle equipment and so on.

We are going to be upgrading our fireground training. I do not expect we will be constructing mock high-rises. We do hope to upgrade our petrochemical fire facilities on the site and provide some more realistic experiences there.

That is all I can say right now. As yet, we do not have the approval for phase two.

Mr. Brandt: I guess the next question is: are we then going to be duplicating a facility? I have a concern about using whatever capacity there is at Lambton to its fullest extent. Is there, in fact, a cost-saving by expanding Gravenhurst to incorporate this kind of firefighting training where another facility exists, and where that type of training might be provided in another location?

Mr. Bateman: I feel that we do not really have the same purpose or the same mandate as the college in Lambton. The costs that I visualize for our training programs in the future involving petrochemical hazards would be fairly minimal. We are not going to be setting off explosions as far as Lake Muskoka. I know you do not at Lambton, either.

The practical end of it, as I say, is now used more as an illustration technique rather than basic, fundamental training. We are going to keep our communications open with Lambton College. We are going to make sure that there is no overlap between the two. They have a very special clientele that is somewhat different from the average student at the fire college.

Hon. G. W. Taylor: If I might answer, Mr. Chairman, to assist the member for Sarnia (Mr. Brandt), I do not want him to get the feeling—and I am sure he does not have it—that we have ignored his information and his college at Lambton since he raised it at the last estimates. One might say that we are presently having

informal discussions as to how to broaden the education base of firefighters.

We have had some concerns expressed by the Ontario Professional Fire Fighters Association as to the qualifications of firefighters, regarding both our own college and the possibility of incorporating some more elaborate education. When one looks at a more enhanced education and education base, one naturally looks at the community colleges.

We have no conclusion yet as to how the Ontario Fire College may fit in with the present education standards and training of firefighters. It is not an area that we have totally ignored, but we are not yet at a stage where we can give you any more of a firm conclusion. We are canvassing the areas you have put forward as suggested ways of training and providing further training of firefighters.

Mr. Brandt: Okay. I do not know whether you have made any headway with that—

Hon. G. W. Taylor: Oh, you would be surprised at the headway we have made here.

Mr. Brandt: It is a problem that does not concern anyone until—I hate to use this word again—a Mississauga-style incident occurs. Then, everyone runs around wondering why the people involved were perhaps not better trained. Thankfully, we did not have a desperate situation in Mississauga that cost lives or anything that critical, but it could have happened, as we all know.

The feeling of the principals to whom I have talked, including those at Lambton College, and Chief Cliff Hansen of the Sarnia fire department, is that the training throughout Ontario for a response to a real chemical fire is simply inadequate. They have a concern that while this training is reasonably adequate among the industries that enrol on a regular basis at the Lambton school, it is perhaps not as adequate as it should be with respect to municipal fire departments, more particularly those that are volunteer fire departments.

I just want to keep adding that word of caution, because somewhere, some time, there is going to be an incident where we will perhaps look back and wish that this training had been given to some remote or isolated firefighting force. I would like to see the training offered as early as possible through some vehicle of the Ministry of the Solicitor General. I want to go on record as having said that again.

Hon. G. W. Taylor: If I understand your approach correctly, Mr. Brandt, it is also possi-

ble to take in students at Lambton College on a tuition basis. The last time I visited there, and talked with you and the officials of that school, they had the capability of taking in people on a tuition basis.

Mr. Brandt: That is correct.

Hon. G. W. Taylor: There is always the ongoing question, and that gets back to what was said earlier, of who will pay that tuition, whether it will be the local municipality or someone else. Also, who will provide the time or the transportation for the students to get there?

That is an ongoing discussion even with those municipalities that send their employees and firefighters, particularly in the officer category, to Gravenhurst.

11 a.m.

Just as recently as a couple of weeks ago, there was a question of whether we were paying adequate mileage costs to get individuals to the officer training program at Gravenhurst, whether it was the same amount as every other civil servant was receiving and whether it was sufficient.

Those discussions are always being raised. Hopefully, Lambton College will see its way clear to offering tuition opportunities for firefighters throughout the province. I do not think that that, in any way—

Interjection.

Hon. G. W. Taylor: The fire marshal has offered a comment in my ear here. I might let him take the microphone to explain more fully what he has done on the question of training.

Mr. Bateman: Thank you, Mr. Chairman. I was just going to make the point that, in so far as bringing training to the public goes, we have had some 17 regional schools around the province over the past year that have either entirely dealt with the problem of transportation of hazardous goods or have offered it as a module.

These are one-week schools. They are held on a sort of rotational basis throughout the province, as requests come in. I thought I would mention that.

Mr. Mitchell: Just by way of comment, the concerns being raised by the member for Sarnia are similar to the concerns that were expressed in a full front-page article in an Ottawa-area newspaper. It expressed its concerns about the capability of the fire departments.

I know that the municipal departments in Ottawa do participate in every course available to them but, as you know, they have a large fuel and fuel oil depot in Ottawa-Carleton. The

takeoff and approach patterns to and from the airport runways are, at some time or another, directly over that tank farm.

As I say, the local newspaper did a whole disaster scenario as it sees it happening there. That was the content of its concern: are we really prepared, are we really ready? Is sufficient training being offered, not only to fire departments but to police departments, so they will be able to respond to a situation such as that?

So the question is not related to just the particular area Mr. Brandt is talking about. That is a rather widespread feeling throughout the province.

Hon. G. W. Taylor: Yes, Mr. Mitchell. I might have Mr. Bateman comment on the style of training that a firefighter receives and the responsibility for that training.

He might also comment on the status that he feels the fire departments and their firefighters have achieved in training for the emergency work you mentioned, as well as in specific firefighting. Mr. Bateman, I will let you comment on Mr. Mitchell's remarks.

Mr. Bateman: The training responsibilities of the fire service really start with the fire department itself.

Mr. Mitchell: Acknowledged.

Mr. Bateman: Yes, they do a great job, from the city of Toronto, which has very extensive training facilities, down to smaller volunteer communities for which our office, to a large extent, tries to provide training services through our regional schools.

We have the fire college, which is largely for full-time firefighters. Our fire services advisers conduct these one-week schools around the province. As I say, there were 17 or 18 last year.

With respect to this particular problem of training for disasters or emergencies, I guess training can do only so much. There is still the potential there for a disaster, no matter how well-trained a fire service you have. It has been far better in the last five years than it ever was previously and we are continuing to try to improve on that. We cover that at virtually every meeting we have on emergency measures. We have roughly two meetings a year at the fire college, for fire chiefs.

Mr. Mitchell: One question to the fire marshal: what is his view of municipal fire departments which operate emergency vehicles vis-à-vis some counterarguments that are put forward by the Ministry of Health?

Hon. G. W. Taylor: Might you qualify that as to what style of emergency vehicle; an ambulance, compared to—

Mr. Mitchell: Specifically, municipality A operates and has within its fire department emergency vehicles—and personnel who sometimes are perhaps better trained than in some areas, but I will leave that aside. There is some question of whether fire departments should have these vehicles, particularly where there are provincial ambulance services.

I would like just to get the feeling of the fire marshal as to his level of support for that type of activity by fire departments.

Hon. G. W. Taylor: I will let the fire marshal answer that. I do not feel we overlap in any great detail. Although they are marked as emergency vehicles, they are for firefighting emergencies. He might comment on what equipment they carry and indicate—

Mr. Mitchell: I am aware of the equipment they carry, at least in my own specific jurisdiction.

Hon. G. W. Taylor:—whether there is an overlapping of activities as well.

Mr. Bateman: Again, further clarification: is this crash and rescue?

Mr. Mitchell: They have that as well.

Emergency vehicles are to all intents and purposes as well equipped, or certainly approaching that, as a well-equipped army.

Mr. Bateman: I would not like to see overlap—you added that last key word—between fire departments and the ambulance services. There is a clear division there.

The crash extrication program across the province has been under way for over a year now and it is working very well. It was recommended that the fire service take on this function and they have embraced it, so to speak. I am delighted that they have accepted it enthusiastically. They are the best equipped to get to a crash scene quickly because of the demographics of the fire service across the province. They are supposed to be crash rescue—

Hon. G. W. Taylor: Might you be more specific, Mr. Mitchell, as to what actually you think they should not do?

Mr. Mitchell: Let us put it this way. Perhaps at some time in the near future I might have to become more specific when I get into a certain area of discussion within certain other ministries. I might leave it at this point. It was just kind of a feeling I was attempting to get from the fire marshal. I will defer to some other questions.

Mr. Chairman: Mr. Renwick, do you have one final question?

Mr. Renwick: Not on this vote, I just wanted to get on to the next vote.

Mr. Chairman: I quite agree. There are no further questions.

Vote 1702 agreed to.

On vote 1703, policing services program:

Mr. Chairman: Mr. Renwick, do you have any questions?

Mr. Renwick: When my friend from the Ontario Police Commission gets up here.

Mr. Chairman: Very well.

11:10 a.m.

Mr. Renwick: I want to enlist the support of the police commission since we are having difficulty with the Solicitor General's office on the question of Securicor and the strikebreaking operation.

I have a reasonable amount of information which would lead me to believe that Securicor was not solely dealing with Automotive Hardware Ltd. over the years and has caused immense problems with lawful strikes in the province. I could go through it in detail; I am not going to do that. I am going to write to you and I am going to set out everything that I know and I will send a copy of it to the Solicitor General.

The focus has been on Automotive Hardware. I am extremely concerned about the interrelationship between a number of companies which are licensed under the Private Investigators and Security Guards Act, and what those relationships are. I am extremely concerned about the role the Downing brothers played in this whole question of strikebreaking activities in the province. I do not know whether you have ever seen that report of The Steelworkers Beyond the Law; The Strikebreaking Industry in Ontario, which was published last August. I will send on a copy of that to you as well.

I believe that Securicor and those related to Securicor have been involved in a number of strikes across the province. I cannot prove each and every one of them. They are certainly not limited to Metropolitan Toronto. In many of those instances there was very significant activity which was violent and difficult for those involved.

When you receive this information, I would ask whether your commission will look into the whole question and see if we can get some kind of action on this question so far as it relates to law and order in the province in relation to

strikes. The information is upsetting, disturbing. We have tried on occasion in the House, to deal with all of these matters and we are not getting anywhere.

It goes back to Boise Cascade Canada Ltd. and all of the violence up in northwestern Ontario related to that strike. It goes back to relationships with Radio Shack, with K mart Canada Ltd.; any number of companies. I am going to try to set out for you that information and I am not going to take up the time of the committee.

My question to you, sir, is have you ever been involved, as a commission, in looking into what goes on with these privately licensed private investigators in relation to lawful strikes in the province. If you have, I would appreciate your comment; if you have not, I would appreciate it if you would assure me that when you receive the information from me you will look into it with as much care as the importance of the topic deserves.

Hon. G. W. Taylor: I am sure Mr. MacGrath would be pleased to receive the information. I would also be pleased to receive the information. The information, I am sure, is not unknown to me. The member has made comment on the lack of co-operation from the ministry. Knowing his background and his knowledge of the situation, I believe there has not been a lack of co-operation; indeed, just the opposite.

There are situations in the field of police work, in the field of investigations, when one cannot, and this minister cannot, give a running play-by-play colour commentary of each and every investigation and each and every item that happens to be raised by members of the opposition as to how they feel the situation appears in their minds. I am sure, with his knowledge of the laws of this province, the member knows that where they have been raised, a full investigation follows.

I am sure the member would not want, and it is not his usual practice, where some investigations turn out to be without any conclusion, to say no charges will flow or no proceedings will flow, or some other possibility. One cannot, in the Legislature or in any other situation, say we have investigated all of these allegations and here are all the details of the investigation, with all the consequent problems that would arise if we were to elaborate on every investigation that does not come to the conclusion the member would want.

He mentioned Radio Shack. That goes back some considerable time. As a result, as I recall,

since it was in my local area, some charges flowed out of that picket-line activity and strike as a consequence. I do not recall all the dispositions of those charges.

I am sure other members will bear with me when I say I find it difficult, even when answering in the Legislature, not being able to provide, because of the duties I think I have as the minister because it is not the traditional thing, the colour commentary, play-by-play, and details of what may be ongoing investigations, or may be potentially ongoing investigations or may be areas which the police might think of investigating or might investigate. I think it is a very fine line that I have.

I recognize the reasons for their concerns. Members of the New Democratic Party, the leader and the critics have asked those questions of me. I recognize their concerns and the legitimacy of their concerns, but it does present a very difficult task for me to answer those questions in the detail your members want, or even to give, as precisely and as speedily as they want, a conclusion on anything we might be doing.

It is not a simple task. I do not pretend to know all the methods and procedures of a police investigation, but they want them, I am sure, to be thoroughly reviewed and to come to a conclusion when they decide to act or not act.

I might ask my deputy to comment. He is even more familiar with the procedures and interrelationships of the crown officers and the interrelationships of police in their investigations.

11:20 a.m.

Mr. McLeod: Mr. Renwick, mention should also be made of the fact, as I indicated last week, that the registration branch of the Ontario Provincial Police, together with the legal services branch of the Ministry of the Solicitor General, are currently considering the question of whether or not there ought to be a hearing pursuant to the Private Investigators and Security Guards Act with respect to Securicor's licence.

As long as that matter is under consideration by those officials and pending any hearing that may take place, it would be my respectful opinion that it is not appropriate in a forum such as this for there to be any public discussion with respect to the particulars of the very allegations under consideration by those officials.

I realize that involves our seeking your indulgence by way of awaiting the outcome of that process, but there is a statutory process cur-

rently under way. I think we are, therefore, all limited in our ability to discuss it.

I hope I can say that you, sir, certainly would not want, by way of any discussion that any of us participated in here, in any way to prejudice the outcome of any such hearing that may take place in the event that this decision is made to proceed in that way.

Mr. Renwick: I certainly do not want to prejudice anybody in these matters. I have a list. I could not prove each and every one of them; it would be impossible to. That is why I said I would wait, to make certain that when the hearing is heard, at least the question can be directed, not just to Automotive Hardware, but to the role that Securicor and the officers of Securicor and companies related in one way or another to Securicor have played, from the list I have, in 21 strikes across the province.

Mr. McLeod: If you would be kind enough to provide us with that information, I am sure Mr. Ritchie at legal services, the registration branch and myself, to the extent that I have been involved in attempting to assist, will be happy to consider any information that you can provide in that connection.

Hon. G. W. Taylor: Just to assist the deputy, because he has been recently appointed, we did receive a list previously from, I believe, the member for Hamilton East (Mr. Mackenzie) of a number of companies that Mr. Mackenzie felt related to the problem. It might be the same list that we have reviewed.

Mr. Renwick: If I am being critical, please believe me, I intend to be critical of it. It has taken a decision of the Ontario Labour Relations Board to confirm what my colleague Mr. Mackenzie has been raising in the assembly for a long period of time, to get these matters considered. When they are considered, I want to make certain that the whole network is under consideration and that we put a stop to the work which has gone on.

The concern I have is the extent and degree of the knowledge of the police as to what was taking place in any particular locality with respect to the strike and whether they were aware of the involvement of the private investigating firm. That concerns me.

I know you have your procedures. My colleague the member for St. George (Ms. Fish) dealt at some length with that question last week. If my information is correct and if you have had the information, if Securicor was involved in, for example, Elk Lake Planing Mill

in 1979 and 1980, which was a very violent strike, and if the principals of Securicor were involved in that, then I want that kind of matter brought out at the time this hearing takes place.

If it is decided that there is going to be a hearing, I am anxious to know that competent counsel will be engaged to make certain that the whole framework of activity of Securicor and its related companies is taken under advisement and that we do not limit it to just the solitary question of whether Securicor's licence should be lifted because of Automotive Hardware.

Hon. G. W. Taylor: I have just one comment. The deputy wanted me to remind Mr. Renwick that the matter was under consideration before the Ontario Labour Relations Board decision. I am sure Mr. Renwick was aware of that. I think I answered that many times in the House; that we were also, as part of the consideration of reviewing the matter, awaiting the outcome of the Ontario Labour Relations Board hearing.

Should a hearing be decided upon, I am sure it will address Mr. Renwick's concerns. Indeed, they would be the natural concerns, I am sure, that a hearing officer would have under the particular legislation.

Mr. Gillies: I have a point of clarification. Am I correct in understanding that the labour relations board has brought in an opinion on this matter but it is now subject to an appeal?

Mr. Renwick: Judicial review on a matter of jurisdiction, I think.

Hon. G. W. Taylor: Yes, I have not seen the actual appeal, but I think we discussed it last day. Mr. Renwick, Mr. Spensieri and I, being lawyers in background, came to somewhat of an agreement that you cannot challenge before a judicial review, but there are about three areas of law that one might speculate could have the judicial review.

The outcome is another speculation. I suspect one of those would be whether there was jurisdiction to proceed against Securicor without Automotive. The other one was the remedy within the jurisdiction of the Ontario Labour Relations Board. In my own mind, I would come to the same conclusion the Ontario Labour Relations Board did; that although it is for judicial review, the activities constitute an unfair labour practice or something that should not be condoned.

In this forum, I think we could all come to the conclusion that we support the decision of the Ontario Labour Relations Board in their find-

ing. If that is an area that is to be appealed, that is for the judicial review court to decide upon.

Mr. Gillies: I appreciate your comments. I always find myself saying this when I get into a discussion, especially with Mr. Renwick. Not being a lawyer—

Mr. Mitchell: You are stealing my line.

Mr. Renwick: I ask the chairman to rule that unparliamentary.

Interjection: Will you take it under advisement?

Mr. Renwick: It is part of being a lawyer, or responsible or thoughtful.

Interjections.

Mr. Mitchell: Instead, one might say, “not being learned in law,” Jim.

Mr. Gillies: I refuse to be drawn into this.

11:30 a.m.

Mr. Mitchell: You started it.

Mr. Gillies: Not being a lawyer, I am not sure how much one should say on the decision of the Ontario Labour Relations Board when it is under judicial review. I would have to say that I am in complete agreement with your comments about the matters of substance that were discussed by the OLRB.

I just very briefly would relate this particular matter of Securicor and Automotive Hardware back to the earlier comments Ms. Fish and I made. In my own mind, I have an ongoing concern about the relationship between crown agencies and certain private companies which may be of an investigative or security nature.

Once the review is complete, I would hope the ministry might look at some of those procedures in the light of what has come out in the Securicor matter. I would also hope that what we may have learned and what the labour relations board has learned through this case may in fact be put to use in changing certain procedures. That may be of a more general benefit than just adjudicating this individual case.

Hon. G. W. Taylor: In my initial opening statement I made some comments and said that would not be the extent of my comments. As a result of questions by the members, I think I have given a great deal of latitude in my replies, over and above my initial statements.

Ms. Fish asked a lot of questions, but she did not go to the extent of—she certainly implied it in her statements—suggesting whether or not the procedure that is presently conducted by the registrar, when people are undercover, should be discontinued or continued. I draw

from your questions that there is some concern in your mind as to whether the registrar should be involved in the procedure. That is a policy decision that we would have to make as a ministry.

Mr. Gillies: I appreciate that. The only thing I might suggest is that there could be a third option: to continue or discontinue the procedure, or possibly to amend it. I am not going to prejudge your discussions within the ministry, but I do think there are changes that could be made to the procedure which would improve it substantially.

Without having a detailed knowledge of the procedure, I think a doctrine of fairness could be established if, at the time the agency is notified of an inquiry, the inquiring party is aware that they will be informed. That comes to mind, but I am sure there are other areas that you will explore and I hope something comes of it.

Mr. Renwick: I personally think that if there is a lawful strike on between a management and a labour union—I emphasize the words, a lawful strike on—then it should be prohibited for anyone to hire a private investigator to deal with those questions. It should be against the law; it is just that simple. When you consider the damage which has been done to the reputation of the labour movement in this province—and we have finally got some concrete evidence of the kind of agent provocateur operation that goes on in the province—the damage will never be repaired.

It is not as if these things were isolated incidents. They have been going on now—so far as the labour movement is concerned—for half a dozen years.

I would appreciate it if the minister would indicate when he thinks the new bill will come into the assembly; the bill that about three Solicitors General back was tabled in the Legislature. You wrote to me last year saying that you expected it would come in promptly. Is it your intention to bring it in or is it going to wait for some of this investigation in order to, perhaps, have a more appropriate bill?

Hon. G. W. Taylor: There is an intention to bring it in. The next question you ask will be, “When?” I do not have the answer to that, Mr. Renwick.

Mr. Renwick: This parliament?

Hon. G. W. Taylor: I would hope so. He is being very precise in his comments, “This

parliament." I would hope that, right down to this session, we might even be closer.

Mr. Chairman: Before we leave this particular topic, I believe Mr. Mitchell has a supplementary.

Mr. Mitchell: It is really not by way of supplementary. I just think the member for Riverdale (Mr. Renwick) should be aware that none of us really condones the use of agents provocateurs in the whole process of, as you said, legal strikes.

There is just one comment the member for Riverdale made. I cannot remember the exact words. However, I would not want you to imply that unions themselves have not been party to some of the bad pictures that have been painted of them over the past number of years.

I think there is some level of responsibility on both sides, but to make it perfectly clear, I do not think any of us would support the use of agents provocateurs.

I do, frankly, have to respect the comments that the Solicitor General made. If there are ongoing investigations in this situation, I do not think he is in a position to give us that colour commentary at this time. However, the minister will surely try to answer at least those questions which he is free to answer at this point.

Mr. Renwick: I am quite happy to let the matter go. I have said what I wanted to say, and I am going to send what information I have. I cannot guarantee it. All I want to do is to put a stop to this now that it has come up, so that we are not going to be engaged in a cat and mouse game over this issue in the province for another five or 10 years.

Mr. Spensieri: I have a couple of comments on this vote and item. I do not wish to be seen as trying to engage the minister in, as he said, a running commentary on Securicor, but it seems to me that there is a somewhat larger issue at stake. That is the question of the entire determination of the parameters of police investigations.

When we deal with setting up a commission, a special investigation, or a special body of inquiry, we normally think in terms of a mandate, the parameters, what it is authorized to do, what the boundaries of its investigation are. Something that has always puzzled me about Solicitor General initiated or Solicitor General compartmentalized investigations is that no one ever seems to know the exact mandate of a police inquiry.

We have had three matters of tremendous

public focus and attention, just in this session: Securicor; the trust company deal; and the Hospital for Sick Children situation. It seems to me that in matters like these it would be useful if the Solicitor General, while he cannot disclose specific, blow-by-blow findings, at least developed some procedure whereby he could table in the Legislature a statement of those parameters, and those areas of mandate which a police inquiry has been given.

For instance, in this particular Securicor case, there is a tremendous variety of issues: the question of licensing; continued fitness for licensing; criminality in some of the acts, and the impact on the labour legislation of this province.

If the opposition and the members of the assembly in general were to have tabled, at the outset or as the investigation continues, at least a statement of the mandate, they could have some input into those areas where it was felt there was a deficiency or an oversight in not recommending something for investigation.

My basic question to the Solicitor General, without wishing to get too specific on Securicor, is: is there some kind of procedure that you could adopt in that direction? Who makes the determination to investigate? Who sets the parameters for the investigation?

If that could be formalized or structured, I think we would go a long way towards resolving this obvious impasse, where the Solicitor General cannot say as much as he would sometimes even like to say, where he is fettered in what he can do while an investigation is going on. We could also do something about the perception on our side that we are perhaps not investigating fully because some obvious areas have been missed for investigation.

11:40 a.m.

I do not propose that we should wait for a reply. I would just like to finish two other points on the same general vote item. They are really housekeeping points.

One is a letter that the Solicitor General has received from the Windsor Police Pensioners Association, formerly called the Windsor Police Retirees and Widows Association, I think. This would come under the vote items having to do with salaries, wages and benefits, and so on.

The retired members of police forces feel that the Police Act should be amended so that their interest in pension benefits, and so on, would be negotiated through their police associations, even though they have ceased to be members of those police associations as a result of their

retirement. Perhaps the Solicitor General could address the question of how he proposes to respond to their request in this regard.

The last point I have on this item relates to the whole issue of transfer payments to local police forces and, in particular, the question of transfer payments for costs associated with the conduct of court actions.

Many of the regional municipalities are taking the approach that the costs of policing, which are connected exclusively with bringing an accused before a court and detaining him while the process is going on—bringing him back and forth for the various adjournments and remands which we are sometimes inclined to request—are really, properly, costs of administration of justice from the wider provincial funds as opposed to costs which should be attributed to the local police forces.

There seems to be a growing movement for having the province assume those court-related policing costs on a more direct basis. I am wondering whether the minister's thinking has been directed to this issue, and what the current position seems to be on that. Those are the only points I have.

Hon. G. W. Taylor: I will go back to your first question concerning procedure, where I said that I could not give a colour commentary on the situation, and you had asked for something more.

I guess that, as Solicitor General, I know certain aspects of the conduct of a police investigation. I fully admit to you that I do not know each and every detail. I do not think the office requires that I know each and every detail.

There are certain features under the Criminal Code that they have to adhere to, being police officers. There are certain items under the Police Act that they have to follow, again being police officers, in the conduct of the investigations and methods.

When you ask who begins it, it may be that the police can begin an investigation on their own. Their sworn duty is to uphold the laws of the province, and they do not need any daily instruction from me.

There are other situations where things may come up from some comments in the Legislature. Someone may raise something and I say, "Fine, I do not know anything about that, but I will pass that on to the police force," be it our own Ontario Provincial Police or whatever. That will cause them to conduct the investigation.

The mechanics of it would be that I might

speak to the deputy and say: "Here is a situation that has been raised in the Legislature. Could you commence investigation?" He would then go down through the channel of command to do it. I may request the Ontario Police Commission to inquire as to what a particular police force is doing on a particular subject or cause an investigation there.

I do not know the mechanics of it after that. All I know is that it has been commenced. I do not know how they would do it except as I have seen on the American TV, American news style, where the district attorney comes in each day and says, "We have talked to Harry Jones and he has given us this information." I am sure that is not what you want and it would not be to the benefit of society, to the accused or to the investigation itself.

There are philosophical approaches to it as well as procedural. I might ask the deputy, who is far more familiar with it than I, as to the mechanics of it. My function is to be responsible in a ministerial capacity to the Legislature. Again, I am not sure that I want to be responsible in providing all the details.

Some of the hypothetical situations Mr. Spensieri might be less than hypothetical. He mentioned the example of Al Clegg. In some of these you cannot back in history. It is very difficult to begin an investigation of something that took place some time ago, other than just getting a general recollection from people as to what took place.

Maybe the deputy minister could explain some of the procedures the ministry goes through to commence and conclude an investigation.

Mr. McLeod: Adding a little bit to what the minister said, the starting point to bear in mind is that a peace officer in Canada is a servant of the law, as opposed to simply being a civil servant or employee of a particular ministry. Because he is a servant of the law, under the Police Act and the Criminal Code, he has, in effect, a measure of independence from the rest of the executive branch of government, which requires him to act on his own in certain respects.

This is not to say that he does not receive direction and guidance, not only from the Ministry of the Solicitor General—the ministry through which the police are responsible to public—but also significant guidance from crown law officers and the Minister of the Attorney General.

With regard to your concern on the possible inability of the members of the Legislature to be

made as aware of specific investigations as they, undoubtedly, would like to be, I think it is essential to keep three factors in mind:

First, in the interests of the potential accused person, there is a strong public duty on any public officer, be he police officer or civil servant, to take every reasonable measure possible to ensure that the potential accused is not, in effect—to use a colloquialism if I may—tried in public before he is charged before the courts.

Second, very often there is a need to remain silent in order to preserve the integrity of the police investigation; to ensure that someone is not tipped off about the fact that the police have to interview him or seize documents or take some other investigative steps.

Third, and of great importance, is the fact that there not be any prejudicing of any subsequent trial by any unwarranted advance public discussion. It is not just the interests of the accused that I refer to as point one in a fair trial, but the interest of the state in having the trial proceed without any impairment by way of unwarranted advance publicity.

All of those things though are not to suggest that a member of the Legislature or, indeed, member of the public, is precluded from—either before, during or after the police investigation—taking steps to satisfy himself that the investigation that should have been carried out, was carried out.

11:50 a.m.

The police are obviously accountable to the courts in the event that charges are laid. The responsible ministers of the crown are responsible to the Legislature if the investigations have not resulted in charges and a member of the Legislature thinks they should have.

A member of the Legislature is free at any time to communicate privately to the minister information that he feels should be investigated and thereby avoid any breach of the three principles that I referred to earlier. It is our duty as members of the Ministry of the Solicitor General to ensure that those things are reviewed with a view to possible investigation. That may put you in the position where you simply have to wait until that can be accomplished.

We try, at least, to realize that this may make it difficult for you to carry out your function as a member of the Legislature, but the three principles I referred to have to prevail in order to ensure that the interests of the accused and of the state are properly protected.

I do not know whether those comments are helpful or if there is anything else specifically.

Mr. Spensieri: Just briefly, I was not referring to the routine investigation the police would carry out on their own initiative and as part of their function. I am referring to issues which for one reason or another become issues of great moment. I cited those three that we have seen in this particular session of Parliament.

Once the cat is out of the bag, once there is such a tremendous public interest and involvement as reflected both in the intensity and the frequency of question period attention and as reflected by a degree of media attention, and once the Solicitor General does make the statement in the House that, yes, there is a police investigation going on, it seems to me that there would be nothing wrong—at least at that point—to say, “It is ongoing and it is considering aspects A, B, C, D and E of this case.” At that point the individual member or anyone having an interest should be able to say, “Could the Solicitor General add F, G and H?” That is all we are really getting at.

It seems to me that a lot of these items which have been investigated by a normal police investigation might have been the subject of a public inquiry in different circumstances and perhaps under a minority government. As such, they would have had the scrutiny of the public inquiry with a very definite mandate, and a very definite set of parameters.

If we are to be left with only the police investigation, and sometime it is the best vehicle—in fact, most of the time I would suggest it is the best vehicle—we should at least have an understanding and a demonstration on the record of what the parameters for that investigation are. That is all I am really arguing for. I was not really trying to indicate to the Solicitor General that he should originate traffic violation inquiries in an endless—

Hon. G. W. Taylor: I recognize your question. Again, I can only say that some are ongoing all the time and I never get questions on them. The only ones I generally get questions on are the ones that attract some media attention.

I guess that gets back to one of the premises the deputy mentioned. The ones that gain the greatest media attention are the ones I am most reluctant to comment on. That could prejudice the outcome—if it has progressed that far—of a potential hearing or charges.

Strangely enough, I jealously guard what I say because there is a certain weight, rightly or wrongly, attached to statements made by a Solicitor General. They could be used in a hearing. I could be called as a witness. There are

any number of potential situations flowing out of the comments I make. It becomes an onerous task upon the incumbent of the office.

I am sure my replies must frustrate the opposition as much as they frustrate me in having to give them, saying: "I am sorry, in the fullness of time;" "I am sorry, I cannot answer that;" "I'm sorry, you'll have to wait on that information;" "I'm sorry, there is an ongoing investigation; therefore, I can't comment."

I am just talking in a general way to you that I'm sure presents the same problems to me. It would be very interesting to give you all these details, not that I always have them. I would like to give you all these details, but I think it is the duty of the crown law officer to provide some of the things you have just mentioned.

When you ask if we have covered or canvassed this particular area, I think it's the duty of the crown attorney who is going to proceed with any potential charges. He is going to ask: "Have you got the proper evidence to support this charge? Have you seen these witnesses? What information do you have?" That's really a mechanical stage that I can't—

Mr. Spensieri: What about in a policy area? I'm sorry to be getting into a dialogue here; I know it's not the proper forum.

However, if it is your policy to know whether a licensed security person is breaching the Labour Relations Act, you must, as part of your mandate to that investigating officer, tell him that. It's a matter of policy interest which he, as a police officer interested in the investigation of the general law, would not normally turn his mind to.

Therefore, there is the question of mandate. What is the mandate? What is the extent? The question, "What is the parameter of my investigation?" becomes very crucial if you are to do a proper police investigation job. Normal police concerns do not allow the police officer or the police force in question to be as expansive as perhaps they should be. You can't expect that.

Hon. G. W. Taylor: The deputy would like to comment on that. I will come back to it.

Mr. McLeod: Mr. Spensieri, when you consider that the role of the Ministry of the Solicitor General, in part, is to be the surveying authority through which the police are ultimately responsible to the public via the Legislature, we don't take any issue with your statement that there is a question of policy direction.

That policy direction is given. It is one that is complementary to the policy assistance and

direction that an investigating police officer gets from an advising crown counsel. To make public the precise policy direction given to the police in every instance, one has to stop before doing so to assess the three factors I referred to before.

Take your hypothetical situation. Let us say that it has become public knowledge, by one means or another, that the police are conducting a criminal investigation with respect to the activities of X in transactions A, B and C. In the first instance, before we can publicly announce that the investigation either is or is not concentrating on a fourth transaction, D, we have to look at a number of things.

First, are we being fair to the people who are involved in transaction D, before there has been a decision by a police officer to lay a charge or not to lay it?

Second, if the charge is laid before there has been a decision by a court with respect to that charge, are we being fair to that individual to make any public comment about it?

Third, are we being fair to the police investigation itself by tipping off anyone with respect to transaction D?

Fourth, are we being fair to the ultimate trial, both from the point of view of the accused and from the point of view of the state?

Those are the kinds of policy decisions that, together with the police, we have to make every day. As I have said before, it is sometimes unfortunate that it puts you in the position, as a representative of your constituents, of wanting to debate in public. However, that desire under our law sometimes has to give way to those three principles, usually only for a temporary period.

Mr. Renwick: I have three or four other items, none of them of any great length to deal with.

Hon. G. W. Taylor: I didn't answer your second question.

Mr. Renwick: Mr. MacGrath, in cases of serious accident and/or death in the work place, we have been trying to persuade the Attorney General (Mr. McMurtry)—and I would like to persuade the Solicitor General and the police commissioner—to begin to look into these types of accidents from the point of view of a police investigation with respect to criminal liability.

The tendency seems to be to satisfy public concern on this issue by laying charges under the Occupational Health and Safety Act. Certainly, there were two or three instances where a police investigation was warranted, rather than

simply having the work done by the inspectors under the Occupational Health and Safety Act. That is one area of concern.

12 noon

The second area of concern to me is that it is like fighting cotton batting to try to find out anything about the Young Offenders Act and the role of the police in it, let alone the roles of the judges, the correctional services, the administration of the courts and the Ministry of Community and Social Services. Perhaps you and the Solicitor General, if you see the Premier (Mr. Davis), might ask him if he would resolve the contradiction, which I understand is now on his desk, with respect to the jurisdictional responsibility for the Young Offenders Act.

With its relatively imminent implementation, the planning of the government behind the Young Offenders Act—when you think of the complete change in philosophy involved in the bill—is at an absolute and complete standstill in every area. The cabinet committee on social policy has one report in, the cabinet committee on justice policy has another report in, and the ministers are squabbling amongst themselves as to who will have the responsibility and the jurisdiction for it. Nothing is taking place with respect to the whole of the philosophy and the implementation of that philosophy.

In my view, as far as the police are concerned, the police commission has a responsibility to implement throughout the police forces in Ontario an understanding of what that change in philosophy is.

This is not a question where you can have minimal compliance and wait to maximize the compliance with the intention of the Young Offenders Act. This requires people to turn their heads a different way on this topic. Segregation, separate courts, all that planning has to take place, but the police in the initial instance have a profound responsibility in that area.

The third area, and I believe the deputy will be meeting on the matter tomorrow, is that of the Indian police commission questions and the Indian policing agreement. I certainly hope that this can be unlocked and that the Solicitor General can begin to play the co-operative role he is supposed to play in the tripartite arrangements between the native peoples, the government of Ontario and the government of Canada. The terms of that agreement have not been lived up to by Ontario.

I understand that it may be possible that you, with your deputy, are now prepared to consider extending the agreement for a year. I hope this

means that there is going to be a change in attitude by the ministry towards that agreement. I would like some assurance from the minister, the deputy or the chairman of the Ontario Police Commission about that issue.

I have two other items. I was quite fascinated by the fantastic bank fraud that took place. I do not think I have the clippings any more, but the fellow who managed to get away with several million dollars in that gold fraud that involved, in a completely innocuous way, the great law firm of Goodman and Goodman and the bank.

I took the trouble to write to the Attorney General, with a copy to the Solicitor General, to ask why it took so long for the banks to advise the police that this fraud had taken place. I got amazing responses from the Attorney General and from the Solicitor General. It was sort of a casual response that, "Well, that is really the bank's business and there has been some minor change in their process." Was it six weeks between the time the fraud took place and the time the police authorities were involved with it?

That should be looked into by getting in touch with the Canadian Bankers' Association and carefully explaining to them that the police in this province are in charge of investigations of crimes, and if crimes occur to their knowledge, they are in default in their obligation if they do not advise the police about them.

If it were not such a serious matter, the letters from the Attorney General and the Solicitor General would actually be quite amusing. One letter indicated that they couldn't follow it up because the two lawyers involved at Goodman and Goodman were down south on a holiday. That is kind of an interesting comment.

Mr. Spensieri: They brought the gold back to Cayman.

Mr. Renwick: The last item I have is this immense concern I tried to express in my opening remarks about that ill-conceived piece of legislation in Ottawa with respect to the security services.

I do not know what you are going to do in this province. Are the security agents going to come into this province with a *carte blanche*? There is going to be no public accountability to the House of Commons. Is there going to be any clear understanding that if offences take place in this province, the justification will be raised in the court and nowhere else?

How are you going to resolve that immense problem between that most ill-advised piece of legislation in Ottawa and the roles of the

Attorney General and the Solicitor General, which I tried to explain in my opening remarks? It actually comes right down to the Solicitor General, because if there are offences committed in Ontario by any member of this so-called anonymous security service, what is going to take place? Are they going to be charged or are you going to back off? How is it going to be resolved? The normal process is that if I am charged with something and I can plead justification, it is grounds for being acquitted. However, that does not alter the fact that the charge is laid. What is the process going to be?

I am not talking about exceeding speed limits or making illegal left-hand turns. I am talking about the kinds of activities the security service will undertake in Ontario. Are they going to be granted some kind of automatic immunity from prosecution in this province if they engage in illegal activities?

I do not know the answer to those questions and I think somebody in the Ministry of the Solicitor General should be deeply concerned. I would hope the police commission would look seriously at the content of that bill and make some public statements about it.

Those are the four matters I wanted to raise.

Hon. G. W. Taylor: I apologize to Mr. Renwick and Mr. Spensieri. I did not finish answering his two previous questions, so I will do those quickly and come back to yours.

12:10 p.m.

One was on a letter he gave to me from the Windsor Police Pensioners Association. I do not believe I have replied to that yet since it has just arrived. Their basic request was for an amendment in the legislation to allow them to negotiate changes.

You are probably aware that we were looking at the Police Act. The normal course of events would be to pass that on to our legislative draftsmen in the ministry. The senior executive committee would look at it to see whether or not that amendment would be warranted in the legislation. A lot of these, naturally, are ones that are negotiated in an individual municipality.

I am not positive whether there is any legislative prohibition presently. I would not want to hold myself out as an expert on all the different pension plans between all the different municipalities and associations, but we will get a reply back to you on that.

The other question you asked was about court security. That is one that is ever present. Mr. Brandt mentioned it last time in estimates—

the difference between transfer payments, between municipalities of \$12 and \$17 differential, between regional and nonregional municipalities. Court security is often raised. I understand that in this Parliament, Toronto does receive certain sums of money from the Ministry of the Attorney General, recognizing that officers have that duty regularly in Metropolitan Toronto.

Other communities have made other arrangements for security and transfer of prisoners. Some are combined in that the Ontario Provincial Police and other municipal police throughout the province do it. We have projects where, when we transfer prisoners, the Ministry of Correctional Services pays some transfer mileage to get from A to B. Some try to co-ordinate it so the officers who are transferring the prisoners become the security officers for the day. That happens very frequently in the provincial court system, where the Ontario Provincial Police are the officers.

It becomes a monetary problem, usually with the municipal people saying, "We do not want our officers sitting around the courts all day." The Pukasz study was done on this subject. Again, the solution is to leave it in the status quo. I cannot tell you if there are going to be any changes immediately. That is where we are presently with the local municipalities, providing security for their prisoners.

The Vice-Chairman: May the vice-chairman interject here?

Hon. G. W. Taylor: He would have if he had been a member, I am sure.

The Vice-Chairman: If I had been back there I would have.

The whole issue of police escorting really flows from the comments you and Mr. Spensieri have made. I apologize if I was away, but there is a precedent created in the situation in London and Metro Toronto and it was my understanding that there are some proposals.

Hon. G. W. Taylor: I guess that we run into difficulties with proposals and reviews. As a minister, I know that certain things are going on, but they have not come to any decision yet. I say that because there is a procedural method of getting money. This is a money solution. They have not gone through the normal procedures of Management Board, caucus, cabinet and Treasurer and then out into the world for discussion, perhaps by way of legislation or otherwise. I can't say that we've come to a solution other than that it is being reviewed and

looked at, as many of our policies frequently are.

The Vice-Chairman: But you can say it's current?

Hon. G. W. Taylor: I can say it's current. It's never not current.

Mr. Gillies: You appreciate, I am sure, that it does cause a certain degree of resentment among some municipalities. Even if one regards them as pilot projects, some areas are getting more provincial involvement by way of court security than are others.

Hon. G. W. Taylor: Yes.

Mr. Gillies: I have been working on and off on this for well over a year. The security at our county court facilities in Brantford is provided by the Brantford city police, whereas the court facilities serve the entire county. It causes some friction between the city and the county that the taxpayers of the city of Brantford are really picking up more than their share of court security costs for the residents of the county.

In turn, there is an added layer of resentment when my mayor reminds me regularly that the province has taken a more hands-on approach in some areas—London and Hamilton, I believe.

Hon. G. W. Taylor: London and Toronto.

Mr. Gillies: He is always saying to me, "You talk to"—and it was Roy McMurtry before your appointment—"George Taylor and get us some money for court security."

Hon. G. W. Taylor: It's still in the hands of the Attorney General; administration of justice and court security is his responsibility. That's why the transfer payments go from that ministry. Again, I make no transfer payments with regard to policing. I'll keep you guessing here. That's under the Ministry of Municipal Affairs and Housing.

I usually field the questions, take the information and pass it on to my colleagues as a concern of the municipalities. It is a problem and an issue that is of concern considering Metropolitan Toronto. It is a sizeable sum; yet one recognizes that Metropolitan Toronto has this as an ongoing, every-day situation, compared to perhaps once a week or twice a month in your jurisdiction. It is not as frequent or regular as it is in Metropolitan Toronto.

This is one rationalization and explanation of the funding that I am sure the Attorney General would give for the transfer of funds in Metropolitan Toronto as compared to most other municipalities. Indeed, the Ontario Provincial Police

do it in many situations throughout the province. They would probably like to deploy their personnel elsewhere than at the courts.

Mr. Gillies: I will concede that in the case I have raised we are not talking about great sums of money. I would appreciate it if you would pass my concerns along to the Attorney General. Believe me, it will come as no surprise to the Attorney General that I have raised them again.

Anything that you could do to urge your colleague to move ahead in this area could address a situation over which the municipalities have some legitimate concern, namely, that the treatment is not as equitable as it might be.

Mr. Brandt: Could I just reinforce—

The Vice-Chairman: It's all right. We will allow one more supplementary. The minister was still going to answer Mr. Renwick's question.

Mr. Brandt: I just wanted to reinforce some of the comments made by the member for Brantford (Mr. Gillies). I think the municipalities do have a valid concern in regard to a number of areas, court security being one of them, and the differential in policing subsidies being another.

If there is a message that we are offering today by way of advice, it's that whenever a program is developed or devised, and where there are differentials in transfer grants to municipalities, they should be dealt with very sensitively. I have raised this question a number of times. My understanding of the policing grant specifically is that it was put in place in great part because of regional policing and because of the reality that some regional forces were taking over areas that were formerly covered by the OPP.

12:20 p.m.

They were assuming some additional responsibilities and, as a result of that, their costs were deemed to be somewhat higher than the costs in other municipalities. That simply doesn't stand up in the light of comparisons with a lot of municipalities. When you take the total gross police budget of some municipal police forces they are, on a per capita basis, higher than some regional police force budgets. The original reason that particular additional subsidy was granted is certainly not as valid today as it was back a few years ago when regional governments first came into being.

There is a real concern about narrowing that gap on the part of municipal police forces in places like Brantford, Windsor, London and Sarnia that do not have regional police forces. They are not being given the extra \$5, I believe

it is, that other forces are getting for a reason that is no longer in place, valid, or justifiable.

I know it has been justified and argued and the reasons have been put forth time and again. I don't know if we can do anything about the problems that have occurred in the past, but I would certainly ask the ministry to be very sensitive about bringing in programs of whatever kind that are going to cause some unrest among municipalities.

I can assure you, as someone who sat on the Association of Municipalities of Ontario board for a number of years, that there wasn't a point of more critical aggravation, quite frankly, than that differential in the police grant. It comes up every year by way of resolution. You are all aware of that. The only solution today is a money solution. That's the only solution that's left.

It is because of a problem that we created here at the provincial level when we gave somebody an additional amount of money to do something and we put the program in a way that just carries on ad infinitum. That's wrong, and it should be addressed at some future point. The problem is not going to go away, as my friend from Brantford has so clearly and so aptly pointed out.

The Vice-Chairman: Thank you for your very short comments and supplementary. I think the minister wanted to address—

Hon. G. W. Taylor: I was, but I can never refuse the opportunity to listen to the very fair-minded and equitable positions put forward by the onetime mayor of Sarnia, now expressing those items at the provincial level, and how the feeling has not changed.

Mr. Brandt: You can answer the question, if you like.

Hon. G. W. Taylor: I was wondering when you were going to run for mayor of Sarnia.

Mr. Renwick: That's not fair.

Mr. Brandt: No, I think that's totally unfair.

Mr. Kolyn: It's a legal opinion, too.

Mr. Brandt: I'm glad my colleague Mr. Renwick shares this concern with me. I am not putting forward a Sarnia position. I am putting forward a position on behalf of all those municipalities out there in Ontario that are not receiving the same level of grant transfer as some regional police forces.

The Vice-Chairman: The minister was answering Mr. Renwick. On the list next are myself and

Al Kolyn. Perhaps the minister would deal with the questions first, and—

Hon. G. W. Taylor: You don't want me to use up time on this age-old question?

The Vice-Chairman: This is the order in which they were tabled.

Mr. Renwick: I would also like to be on the list.

Hon. G. W. Taylor: Naturally, I'm sure the member for Sarnia will put those same suggestions to the Minister of Municipal Affairs and Housing (Mr. Bennett), whose responsibility it is to set the rates, or in whose jurisdiction the rates are set.

I must add that it is one being reviewed by an interministerial committee. The minister has so perceptively discovered that it is a monetary solution and none other. I am sure that, knowing the restraints and constraints presently on that, he would not like to see the \$17 go down to \$12, if he could resolve that one. I am sure his suggestion would be that the \$12 go up to \$17, or that it be removed entirely as a designated sum. There are three or four alternatives that you can consider.

Now back to Mr. Renwick. We talked on one subject, that being the tripartite agreement on Indian policing. That does come under the Ministry of the Solicitor General, as a party to it. It does come under the Indian policing program under a later vote, through the Ontario Provincial Police.

You can see from some correspondence that there has been between certain Indian groups, native people's groups, ourselves and Ottawa that there has been some concern about the future of that. I can tell you that we have had discussions more recently with the solicitor.

I get all these names confused. Let us say that she is representing the concerns of the Indian people along with Mr. Justice Hartt, the Indian commissioner. I think we had at least two hours or more of earlier discussion on it with them. One word was causing, if I could be so bold as to say, a great deal of difficulty—the word, I think, being “extension” as compared to continuing. I think it has all been settled now.

The present agreement, I understand, will be extended for a year. We will continue to discuss changes with you, amendments to the present agreement. I think it was one of those situations that develop from time to time.

Mr. Renwick: When is the advisory commission, the Indian Commission of Ontario, going to be established? I understand that Mr. Justice

E. Patrick Hartt has submitted terms of reference for that commission. I believe that those were carefully prepared.

Secondly, when are you going to pick up your fair share of the cost of it?

Hon. G. W. Taylor: As you are probably aware, our fair share of the cost of the total program is 48 per cent, with the federal government picking up 52 per cent of the Indian policing program.

I believe the deputy minister has had some discussions more recently than I have with the people negotiating that, so I might pass it over to him to explain everything and update the members on the Indian policing agreement as it presently stands.

Mr. McLeod: First of all, we have had, within the last month, one very useful meeting with representatives of the Indian associations, with the assistance of Mr. Justice Hartt and of Roberta Jamieson from Mr. Justice Hartt's office. Through that process, as the minister has indicated, the agreement has been extended for a year.

The second meeting is tomorrow morning. We will be discussing that part of the agreement which relates to the advisory body known as the Indian Commission of Ontario. The Indian associations have been provided with a total of \$30,000 so far for purposes of getting the advisory commission into operation, the money coming jointly from the federal government and from the Ministry of the Solicitor General.

The existing agreement, which has been in force for three years now, makes provision for the setting up of that advisory commission. As I understand it, however, the Indian associations want to discuss the matter further with us in the tripartite process before going ahead and actually setting it up.

As you have indicated, a study was done by, I believe, Professor Alan Grant. That study will be the subject of discussion starting at this meeting tomorrow morning.

With my knowledge of the matter thus far, I can't agree with your suggestion that the terms of the agreement have not been lived up to, if that was intended as a suggestion that the Ministry of the Solicitor General has not lived up to these terms. It has been at the option of the Indian associations to proceed with the setting up of the advisory body known as the Indian Commission of Ontario.

Mr. Renwick: I should have been precise. That agreement contemplated an assessment

and review which was to be carried out. That was carried out. I understand that the Ministry of the Solicitor General did not pick up its share of the cost, that the federal government paid for the cost of that study and review, and that there are a large number of recommendations and comments in it. It was my understanding that the Solicitor General refused to participate in the financial cost of that.

Mr. McLeod: With respect, I believe you are referring to what is known as the evaluation report—

Mr. Renwick: The evaluation which is called for by the agreement, right?

12:30 p.m.

Mr. McLeod: The evaluation report has now been made available to the three parties in the tripartite process. It contains a number of conclusions that are exceedingly complimentary to the Indian policing program which the Ontario Provincial Police has been running.

It makes a number of useful suggestions of minor ways in which the program could be improved, in some ways at least. The suggestions in that report will be the subject matter of discussion in this ongoing process during the year's period of extension.

Mr. Renwick: My understanding is that the Ministry of the Solicitor General left it up to the federal government to foot the cost of that evaluation. That was my comment.

Mr. McLeod: I can't say, Mr. Renwick. I was not involved in that decision in any way at the time. My understanding was that the federal government participated in a significant—I don't know the details of that precise issue, so I can't be helpful to you.

However, there has certainly been no failure that I am aware of on behalf of the Ministry of the Solicitor General to uphold its end of the financial commitment, nor to participate in discussions.

Mr. Renwick: My understanding was that the full burden of the cost of that evaluation study, called for by the agreement, had to be borne by the federal government.

Mr. McLeod: Our understanding, I have just been advised, was that the federal government was prepared to pay for the cost of that evaluation report. We were not called upon to participate in that financing, over and above the significant financing that we are involved with in relation to the program itself and the Indian Commission of Ontario funding.

Hon. G. W. Taylor: Another item on that, Mr. Renwick, was that I think the ministry felt that the in-house procedural reviews we have of all of our programs, including the Indian program, were being carried out. That was being done as part of the agreement; we had a review ongoing.

I believe that the federal government decided it wanted an independent review of it. Other than what we were doing, they wanted an independent, outside review. I think one might say that we were not willing to accommodate them in regard to the funding of an outside review.

It was negotiated that if an outside review were done, they would pay for it themselves. The outside review was carried out by the federal government and paid for by them afterwards. One might describe it as a duly negotiated conclusion, as to an understanding of what the original agreement meant or intended. They volunteered to pay for it.

Mr. Renwick: I take it that you are imbued with a new attitude of co-operation towards this program now. Is that correct?

Hon. G. W. Taylor: I think we are always imbued with an attitude of co-operation.

Mr. Renwick: Whole-hearted co-operation?

Hon. G. W. Taylor: Whole-hearted, unqualified co-operation was there throughout. One might say there was some discussion as we progressed along. I do not think you will disagree with that.

There was some as to the procedure for carrying out the extension. I think what some people in the native community wanted was a similar procedure to that being conducted for the fishing agreements, which was being conducted by the then Minister of Natural Resources and was discussed as a tripartite method of arriving at a new fishing agreement for northern Ontario.

Our argument was that, as the fishing arrangement was a new and innovative program whereby you would have to sit down and develop methods of arriving at an agreement—and it was a procedural method they were going to use—that this was inapplicable in a situation where we already had a tripartite agreement. It was in existence, and it just needed fine-tuning.

So I think the area of discussion was in regard to whether we would apply the fishing method as compared to the method already in existence.

We said that we thought the method in existence, that of discussion, negotiation, amend-

ing and making changes where necessary in the present agreement, would sufficiently carry out the needs of the three parties: the federal government, the provincial government and the Indian community.

Mr. Renwick was arguing over the lack of co-operation, but I thought that there was tremendous co-operation throughout.

Mr. Chairman: I would like to interrupt here. Without cutting off committee members, I would like to move along as rapidly as possible so that we can spend some time on vote 1704 before our time has expired.

Mr. Renwick: I have raised those questions. Perhaps you could drop me a note at some point.

Hon. G. W. Taylor: Mr. Renwick has put three or four others, including one on the Young Offenders Act. I am sure that Shaun MacGrath has something to say—two sentences, he informs me—as to where we are at the Ministry of the Solicitor General, and what our responsibilities are.

I know Mr. Renwick went into some other areas. I do not think that in any way inhibits what we are doing in the police community to prepare ourselves for the Young Offenders Act.

Mr. Renwick: Could you drop me a note about the other points that I have raised?

I believe there is a standing order on this one.

Mr. MacGrath: We have had a working committee in operation for the last four months. So far, we have twice assembled all the youth officers from all the forces across the province at the college.

We have also sent our own commission personnel out to the zone meetings, to the six zones across the province, to the chiefs, advising them of the need for very severe and intensive training for the Young Offenders Act. We are rather pleased with the progress we have had to date, but we still have some work ahead of us.

Mr. Chairman: Mr. Mitchell and Mr. Kolyn, do you have two brief questions?

Mr. Mitchell: Yes, it will be very brief. I know without a doubt that I am probably going to open the door to some questions from his Lord Mayor, but there are a couple of issues I would like some response to from the minister, and he can in fact do it in writing later on if he wishes.

You know, we are in this period of restraint, and municipalities are feeling the financial pinch many times over, in various departments—not the least of which, for example, is the area of

educational costs in my own municipality—yet we look at some municipalities throughout the province which are, in effect, getting free policing. Some find that a very unfair situation.

I have raised the issue with the minister, but I would like to know where it currently sits. I am led to believe that there is some policy being developed with regard to perhaps phasing out the free policing service for some municipalities. I would really like to leave the question at that, if you could bring me up to date as to where that sits.

In fact, I know there is a proposal from a municipality that I am very closely associated with. I understand that they made suggestions in writing some time ago as to how it might be dealt with. That is an issue which I think has to be dealt with. As I say, you get two municipalities side by side, one paying its normal share and the other getting the benefits without any cost to it at all.

I wish to comment further on that. There is a commitment which goes along with that. I know there are those who would say that there is no such thing as a police grant any more, but the fact of the matter is that it is still maintained.

The municipalities that do not have a regional force look at the position the province has taken, where they have said, "We will no longer really actively promote regionalization." Yet that differentiation is still there for our regional force versus our local force, and I know the member for Sarnia raised it.

There was in fact a commitment given—some two and a half years ago, it seems to me—that the whole issue of the grants would be looked at with the possibility of closing that gap, based on the very arguments that the member for Sarnia has made. So I do say, frankly, that neither one of those issues sits lightly with municipalities, and I think we need some answers as to what is really happening.

12:40 p.m.

I know the minister will say that those grants are not paid through his ministry, but I think input from him is really necessary.

The third question deals with arbitration, and that one could take every moment that is left. I think it is fair to say that the municipalities have some very grave concerns about the whole process of arbitration, not only police arbitration but that of fire departments.

I would like to know from the minister if there are any proposals, or if a policy paper is being prepared, which might suggest modifications or

amendments to the process. The minister and I have talked about it. I think one of the things municipalities see out there in this process is that what is not being examined is the ability to pay. I think that is probably the strongest issue.

Mr. Renwick: You are talking about the destruction of the arbitration process?

Mr. Mitchell: Not at all. I would not want to suggest that. I say to the member for Riverdale that the municipalities are raising that as a concern.

Mr. Renwick: I know. The Premier (Mr. Davis) raised it at the Premiers' conference a year ago.

Mr. Mitchell: At least, we should know what process, if any, is being pursued. I will leave it at that. Perhaps the minister can respond to those three questions at his earliest possible convenience.

Hon. G. W. Taylor: On the first one, I can use a generically useful term. As you are probably aware, in Ontario there are municipal police forces and the Ontario Provincial Police. The municipal forces fall into two categories, local and regional, depending on the type of government.

There are two ongoing discussions, one in the township of Kingston, and the other in the area of more concern to you, the municipality of Kanata. The OPP has authority in every area where there is no municipal or regional force. Sometimes they even go into areas served by these forces through some co-operative agreement; sometimes they do this where the regional municipality has not taken over the entire area.

I call that general policing. I do not want to say that we are excluding ourselves, because we have the ability to investigate crimes anywhere in Ontario. You are talking about the day-to-day policing activities. Under the Police Act, there is a population limit of 5,000, whereby communities with a population of under 5,000 are generally considered to be communities that the OPP would police.

There was a time when a number of communities combined their police forces and formed regional forces, or removed their police forces and let the OPP take over. There is one community, the township of Kingston, where negotiations are presently taking place.

It is up to the local municipality whether they will continue in a contractual way, paying for the services of the OPP, whether they will form their own police force, or whether they will

combine with a neighbouring police force. This is one of those communities, in effect, that has grown up around the original services of the OPP. The population has grown, and we have added police there.

There is an ongoing review as to changes in the population limit beyond which a community is required to pay. You can get any number of combinations of thoughts on that from different formulae and assessments. Any amount of imagination can create another procedure which is at present—there is just no conclusion, I might add, at this time.

Mr. Mitchell: If I might just interject at that point, I was not expecting you to answer that question now because we are running short of time. I will just leave it at this.

I raised the question because I know that the one municipality I am involved with has some sort of proposal before you. That is what I am really concerned about. Perhaps you can answer me, not in this quorum, but after the estimates are completed.

Hon. G. W. Taylor: The municipality of Kanata is discussing this with the ministry people. I think it was the full intention of the municipality that Kanata would enter into an agreement with the Ontario Provincial Police. The terms and conditions are yet to be completed.

As you are probably aware, we do have a police arbitrations commission. This group is made up of representatives of police associations and police governing authorities throughout the province.

They sit as a group. If I understand the procedure correctly, they review and appoint individuals to be arbitrators, in concert. These individuals would then go into situations where it is necessary to arbitrate a contract, or an agreement with a municipality.

Once they are selected as arbitrators, they get on a list. Whenever a municipality cannot decide on an arbitrator, they make a request to me. I go over the list, pick a name as it comes up on the rotation, and say, "There is your arbitrator."

I know it has been asked from time to time if we give the arbitrators instructions. I must confess that we do not give them any. They are arbitrators; they follow whatever learning, experience and background they bring with them to make the decisions.

One question I have often encountered is that of the ability to pay. This is a question that has been put to me as minister in both areas, by firefighters and by groups such as the Associa-

tion of Municipalities of Ontario and others. They say that the arbitrators do not take into consideration the ability of a community to pay those awards.

I am not so sure that one would want a minister involving himself in the arbitration process, saying, "Here are the guidelines within which you must arbitrate." I think that flies in the face of what the name implies, what an arbitrator does, so I have not come to the conclusion that I should give them that style of instruction.

I am willing to listen to you, or anyone else. It might be something for discussion at a later time, as you have said. One of those features put forward by municipalities is that we bind the arbitrator to come to a decision, but that we believe he or she is not following the procedure we would like to see followed. That is my brief comment on the ability to pay.

Mr. Kolyn: Mr. Renwick brought up Bill C-157, its importance to this committee and to Canada as a whole. I understand Mr. Renwick's concerns. I think the Attorney General made some comments recently at the Attorneys General conference in regard to this matter.

My problem with this whole national security agency seems to be that the press and everyone else says it is an agency which will really infringe on our freedom of rights. I myself feel that the federal government is charged with national security. As a security agency, I just could not see how the rules could be kept in regard to what we have in criminal activities.

I just want to say right here and now that if we are looking for guidelines as to how the agency should be set up, we have perfect examples in Britain with MI5 and MI6. They have accountability there, and we will certainly have accountability here.

Mr. Renwick: Anthony Blunt certainly did a good job.

12:50 p.m.

Mr. Kolyn: I just want to raise the concern that, sure, there are some concerns, but certainly the security service is here for all Canadians, and I certainly support the security system. If it is going to be taken away from the RCMP, we should have some kind of a system.

I think all the provinces could come to some arrangement with the federal government in regard to national security.

Hon. G. W. Taylor: Thank you very much for your comments. As you are probably aware, the

Attorney General of Ontario (Mr. McMurtry) and the other Attorneys General have discussed this particular piece of legislation at the Charlottetown conference which met last week. They have naturally condemned many aspects of it, and raised their concerns about it.

Naturally, I have some of the same concerns. In our capacities as elected representatives, this quorum allows us a great deal of latitude of opinions. We have the forthcoming Attorneys General and Solicitors General conferences coming up in July, and I know that it will be one of the major items put forward for discussion.

We will be putting our position very forcefully there, indicating where we think the particular piece of legislation lacks what we can categorize as safeguards, accountability, and other features we would like to see in any security force.

If one says that this ministry and the police are in certain ways accountable to the law, indeed, any other security force has to be accountable to the law, and to the legislators—be they provincial or federal—who are then responsible to the public. I cannot do anything except to personally, and in my official capacity, support the positions of the Attorney General. Indeed, I do.

It is an area that I am sure is not going to end with just this brief comment. It will be debated for some considerable time to come.

Mr. Gillies: Minister, if you want a sampling from this committee, just for the record, I think that the introduction of Bill C-157 is probably one of the most scandalous assaults on democracy in this country that I can remember.

Hon. G. W. Taylor: That ought to get some notification in your local media, Mr. Gillies. One cannot disagree with some of your comments. Does anyone else want to label this?

Mr. Brandt: I do not like it, either.

Hon. G. W. Taylor: You do not? And the Lord Mayor of Sarnia? Mr. Spensieri?

Mr. Chairman: If I may, on a point of procedure, we have only five or so minutes left in the time allocated for the estimates of the ministry. Shall we carry vote 1703 in its entirety?

Vote 1703 agreed to.

Mr. Renwick: Can I have a minute?

I followed one police chase until I finally got the details, but I had to wait for a considerable period of time until the matter was disposed of in the court. This is the first time I have had an opportunity to raise it.

A fatal accident occurred in my riding at Gerrard Street and Carlaw Avenue. My colleague for St. George (Ms. Fish) will be interested in this, knowing the geography of the area. This is the report I had on it. I just ask you to consider it. If you have any comment on it, write to me, if you would.

"On Sunday, August 16, 1981, at about 4 a.m., David Fanning stole a 1976 Chrysler from the parking lot at the 51 division police station, 30 Regent Street. At about 4:07 a.m., he was involved in a collision with another vehicle at the intersection of Gerrard Street and Carlaw Avenue. One of the occupants died as a result of the injuries. The others survived.

"The stolen vehicle had been observed by a marked police vehicle just two minutes before the fatal accident. It was westbound on Carlton Street without lights, and turned south on Jarvis Street, disobeying the red traffic signal. At Gerrard Street it proceeded through a red traffic signal, turned left, and proceeded east on Gerrard Street.

"The vehicle continued east in the westbound passing lane, and the police vehicle's red roof light was activated in anticipation of bringing the vehicle to a halt. The vehicle continued through a red traffic signal at Sherbourne Street at about 40 kilometres per hour and then accelerated to 70 kilometres per hour.

"Keeping pace at a safe distance, the police officer called for assistance, and just east of Broadview Avenue, two police vehicles proceeded in attempts to restrict the stolen vehicle's further progress by boxing it in. The stolen vehicle rammed the lead police vehicle, causing it to swerve, and in order to avoid further risk of injury, the police vehicle stopped.

"As they approached Carlaw Avenue, the police observed that the traffic signal was red and that a vehicle was stopped at the intersection. Travelling at 70 to 80 kilometres per hour, the stolen vehicle moved into the curb lane, passed the stopped vehicle, and struck a southbound vehicle. David Fanning's injuries were of a minor nature."

I find the time period of that quite frightening, with respect to that police chase, and I would appreciate it if you would review it. I have what I believe to be the latest police chase guidelines, those of February 23, 1982.

Hon. G. W. Taylor: I shall review that one and get back to you, Mr. Renwick.

Mr. Chairman: Any questions on vote 1704? No?

Vote 1704 agreed to.

Mr. Chairman: Shall the estimates of the Solicitor General carry in their entirety? Carried.

Shall the estimates be reported? Yes? Thank you.

Just before we adjourn today, I would like to point out that, due to the absence of the Provincial Secretary for Justice (Mr. Sterling), we will be unable to proceed with the estimates

tomorrow and Friday. I believe you have all been so notified.

It is my understanding, and please correct me if I am wrong, that the estimates for Justice Policy will take place in their entirety next Wednesday, June 8, from 9:30 a.m. to 1:30 p.m., all four hours. I talked to our House leader this morning, and he tells me he has received no negative comments on that.

The committee adjourned at 12:59 p.m.

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No. J-5

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Provincial Secretariat for Justice

Third Session, 32nd Parliament

Wednesday, June 8, 1983

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, June 8, 1983

The committee met at 9:30 a.m. in room 151.

MOTION RE ANNUAL REPORT

Mr. Chairman: Today we are meeting to consider the estimates of the Provincial Secretariat for Justice. We have the Honourable Norman Sterling, Provincial Secretary for Justice, with us. I presume we will be proceeding with the estimates today. However, I must inform committee members that we do have a motion presented to us by the Leader of the Opposition (Mr. Peterson) which is currently being distributed to committee members.

Mr. Peterson: Mr. Chairman, I appreciate your comments and we are distributing copies of the motion. Perhaps for your purposes, I will read it into the record.

I move that notwithstanding the orders of the day for the standing committee on administration of justice as listed on the business sheet for Wednesday, June 8, 1983, that pursuant to the petition tabled in the Legislature on Monday, May 30, 1983, requesting the referral to the standing committee on administration of justice of the annual report of the registrar of loan and trust corporations of the Ministry of Consumer and Commercial Relations for the year ended December 31, 1981, that the same annual report be considered by this committee beginning today so this committee may conduct an inquiry into the capacity of the Ministry of Consumer and Commercial Relations to meet its responsibilities and duties in regulating loan and trust corporations licensed to conduct business in Ontario.

Mr. Chairman: Before you proceed, I might point out to you that the committee members agreed unanimously at the last meeting that we would be doing the estimates of the Provincial Secretariat for Justice today from 9:30 a.m. to 1:30 p.m.

In effect, we have commenced those estimates, and I am just suggesting to you—I am not ruling your motion out of order—that it may well be more appropriate to bring the motion at some later date, as the committee has already structured its business for today. Any time taken up debating the motion is really taking

away from the time of the estimates.

Mr. Peterson: I appreciate what you are saying, and if you will indulge me, I would just like to give you my reasons for suggesting to you and to the members of the committee that we should change the order of business.

As you know, committees do have the power to order some business. I certainly respect the history in the last week or two as you describe it. That being said, you will be aware that we have been extremely concerned about the regulation of the Loan and Trust Corporations Act. We have not had annual reports for some time. Indeed, the 1980 and 1981 reports were just filed and tabled in the House on May 27 of this year. One was two years late, one was roughly one year late, so this is the earliest opportunity we as a committee have had to look into this matter.

If you will permit me, I have a statement. I think if the members would listen to it, they will be persuaded the issues we bring to this committee at this time are probably far more significant than the ordinary course of business and we should allow for some flexibility. With your permission, I would like to tell you why I deem it to be in the interests of this committee of the Legislature at this time.

Mr. Gillies: Mr. Chairman, on a point of order: I have no objection at all to hearing the statement of the Leader of the Opposition as long as the ruling of the chair is clearly understood—that any time we spend this morning on this particular matter will be deducted from the Justice policy field estimates time.

Mr. Chairman: That is quite correct.

Mr. Gillies: It is certainly fine with us.

Mr. Chairman: My ruling is that we have started the estimates.

Mr. Renwick: What were you saying?

Mr. Gillies: That any time we spend this morning on this matter will be deducted from the estimates time.

Mr. Renwick: No, there is no way. There is no authority for that. If I understand correctly, what you are saying is that to the extent this matter is before the committee, the four hours will be reduced. There is no authority for that.

The time allotted for the Justice policy estimates is four hours and I intend that we will have four hours.

Mr. Gillies: If you are going to make a big issue out of it—

Mr. Renwick: It is just as simple as that. Otherwise the committee will fold up its operations on it.

Mr. Chairman: We have in fact commenced the estimates of the Provincial Secretariat for Justice.

Mr. Renwick: We have not commenced the estimates.

Mr. Chairman: We have.

Mr. Renwick: You made the statement at the beginning that we were here to consider the Justice policy estimates.

Mr. Chairman: That is quite correct.

Mr. Renwick: I am not going to be quiet over this kind of fiddling with the rules. The Leader of the Opposition asked permission to put a motion. That does not affect the other business of this committee.

We are not going to be bullied by the Conservative Party on that kind of fiddling with the rules. Let us be normal, ordinary, everyday members of the Legislature. The Leader of the Opposition has requested an opportunity to put a motion. I think you can either rule the motion out of order, or you can say that you will entertain the motion and then you can deal with whatever motion is put, but that time will not be taken at the expense of the limited four hours allocated by the assembly to the estimates of the Provincial Secretariat for Justice.

The fact we are dealing with this request from the Leader of the Opposition has nothing whatsoever to do with the estimates of the secretariat. I am surprised the member for Brantford would raise a niggling matter such as that.

Mr. Gillies: With the greatest of respect, if you would allow me to reply to your point—

Mr. Renwick: I do not want to debate it. I think the Leader of the Opposition should be allowed to proceed.

Mr. Chairman: Order.

9:40 p.m.

Mr. Gillies: Mr. Chairman, on a point of order: I was asking for your interpretation of the point that you made a few minutes ago. I understood you to say that we had commenced the estimates of this ministry. I then put the point that some time allocation adjustment

would be made, and I saw the Leader of the Opposition and his colleagues nod in agreement. I am in full agreement with your interpretation. It would appear on this particular point that Mr. Renwick is a minority of one.

Mr. Renwick: I am not a minority of one; I am a member of this assembly representing the New Democratic Party in this committee and we have four hours allocated for the Provincial Secretary for Justice. I will not be put down by the likes of the member for Brantford when he is so niggly about these kinds of questions. Either we entertain, in courtesy, the request from the Leader of the Opposition, deal with that issue in whichever way the dominant government majority will deal with it and then proceed in an orderly way with the estimates of the Provincial Secretary for Justice. The two are not related.

Interjections.

Mr. Chairman: Order.

Mr. Renwick: I am not a minority of one, I am a member of the assembly.

Mr. Gillies: I question who is being niggly.

Mr. Brandt: Mr. Chairman, on a point of order: It is a pleasure to have an opportunity to get the floor after the recent outburst. There has been an agreement on the part of this committee that we are going to spend, by unanimous consent of all members of the committee, four hours on the estimates of this ministry.

In my view the opposition cannot have it both ways. If they want to have the motion put on the floor and discussed then I think my colleague from Brantford is entirely correct in indicating that it should come from those particular estimates. Whether the member for Riverdale is in favour of that or not, the reality is that we do in fact have an agreement for those four hours.

If the opposition wants to take a portion of those four hours for some other discussion that is unrelated to the proceedings of this committee, then in my view it is totally proper and totally appropriate that they be taken from those four hours. We have already made an agreement, as the member well knows.

Mr. Renwick: With respect, I am not interested whether you believe it is appropriate or not. The fact of the matter is that the orders of the House have allocated four hours for the estimates of the Provincial Secretary for Justice.

Mr. Brandt: Then let us proceed with the estimates, as we have already agreed.

Mr. Renwick: We are in the hands of the chair.

Mr. Peterson: Mr. Chairman, may I try to be constructive here. As I understand the rules of this House, the committee has the power to order its own business. As I indicated, we in our party deem this issue, that I would like to raise and bring to your attention and explain to you why I think it is important, to be more important than dealing today with the estimates of the ministry.

That being said, I respect very much the opinion of my friend from Riverdale and I think, as I interpret his point of view, there is no reason this committee cannot deal with both issues in sequence. I am trying to alter the sequence to bring this issue to the attention of the committee and then at some time in the future the committee will reorder the business to hear the estimates of the ministry.

I do not see that they are mutually exclusive. I see that we completely have the power here, and I think the member for Riverdale is appealing to two things: your sense of fair play on the issue, sir, as well as the more strict legal interpretation that we have not started to deal with the estimates of the ministry. In fact, at the beginning of the meeting, I have the right to put a motion before we deal with the estimates.

We can deal with this and then move on to deal with the estimates of the ministry. It seems to me in the circumstances that would be a reasonable interpretation. The precedent book is filled with examples where the estimates or regular business has been set aside because of a matter deemed to be an emergency by some member.

I suggest to you, sir, that could have come from a government member, it could have come from someone in the NDP or anywhere else. I do not think at this point it is productive to get us into a fight over which one is right, which one is wrong and waste our time on a major procedural fight. I would suggest to you, sir, to use your good judgement to try to accommodate all of the members here, and I think even the government members will be very interested in some of the things I have to say this morning.

Mr. Chairman: Seeing that the committee has already structured its own business for the day, I suggest this committee should decide whether it wishes to proceed with the estimates as we have structured, or whether it should spend a good portion, or at least some time this morning, discussing the motion.

Mr. Peterson: Mr. Chairman, perhaps you could hear my statement about the urgency of the situation and then you may be in a better

position to make a judgement on this critical matter.

Mr. Chairman: The problem I see with that, Mr. Peterson, is that in so doing we are going to be using more of the time of the estimates.

Mr. Mitchell: Mr. Chairman, on a point of order: Can you tell me if the motion has been tabled? Is it a standing motion?

Mr. Chairman: The motion has been tabled.

Mr. Mitchell: All right, Mr. Chairman, I move the question be now put.

Mr. Mancini: Mr. Chairman, that is not fair. What we are asking to do here is—

Mr. Breithaupt: Mr. Chairman, on a point of order: Perhaps we could resolve it this way; might I suggest that the committee hear the Leader of the Opposition? If at the time his statement is completed, the decision is then made to complete the estimates of this ministry by a certain time, the majority of the committee could do so, probably with my own acquiescence.

To spend more time dealing with procedures simply takes time away from either possibility. If we could hear the Leader of the Opposition, the committee might then decide in the next 10 minutes whether to go ahead or whether to deal with and complete the estimates of the Justice secretariat in a certain period of time.

For example, if the decision was made that we would complete them within the four hours allocated this morning, I would be quite prepared at that time, other than for a brief opening statement, to give the balance of those hours to my friend the member for Riverdale, and therefore would deal with what would ordinarily be about one third or one half the time for the Liberal opposition in that four. If that were acceptable, we could get on with this matter. I do not think anyone would be shortchanged as far as time is concerned.

Mr. Chairman: Would the committee members be in agreement with Mr. Breithaupt's suggestion that we decide on the motion of Mr. Peterson by no later than, say, 10 o'clock this morning and that we complete the estimates of the Justice policy field by 1:30 p.m., which is the original allotted time? Are the committee members in agreement with that?

Mr. Renwick: Mr. Chairman, on a point of order: I would like to record my dissent. I would like the matter put to a motion. I would like the vote taken. I would like the vote to be recorded with respect to the deviation from the agreement of the assembly that four hours would be

spent on the estimates of the Provincial Secretary for Justice. One cannot play fast and loose with the rules. One can order one's business, but one cannot fool around with the rules.

Mr. Mitchell: Mr. Chairman, on a point of order: I am not as versed in the rules as you, but my understanding is that when a motion is put that the question be now dealt with, that takes precedence, that is the motion that stands and it is not debatable.

Mr. T. P. Reid: One has to vote on the question that the motion be now put.

Mr. Mitchell: That is right. I moved that the question be now put.

Mr. Breithaupt: On a point of order before that motion is put, Mr. Chairman: If you will look in the rules at standing order 36, you will find the rule states that, "The previous question, which may be moved without notice or a seconder, until it is decided shall preclude all amendment of the main question, and shall be in the following words: 'that this question be now put.'"

Mr. Mitchell: Which is precisely what I said earlier.

Mr. Breithaupt: That is exactly so. The rule then continues: "Unless it appears to the chair that such a motion is an abuse of the standing orders of the House or an infringement of the rights of the minority, the question shall be put forthwith and decided without amendment or debate. If the previous question is resolved in the affirmative, the original question shall be put forthwith and decided without amendment or debate."

The chairman will now have the opportunity to decide whether there has been any discussion on this motion. I would suggest that if he heard the Leader of the Opposition first, he could then make a ruling on the motion as suggested by Mr. Mitchell and we could get on with the estimates of the secretariat.

Mr. Brandt: Understanding, of course, Mr. Chairman, it is not required to do so.

Mr. Breithaupt: It is only a suggestion.

Mr. Brandt: I recognize it is only a suggestion.

Mr. Breithaupt: I am just trying to help.

9:50 a.m.

Mr. Chairman: Can you briefly explain your motion before the committee, Mr. Peterson?

Mr. Peterson: It is not easy to do briefly, Mr. Chairman, but I will do it as well as I can.

Mr. Chairman: How much time do you think you will need?

Mr. Peterson: I will take 10 or 15 minutes. It is an extremely complicated issue, as I am sure you are aware.

Mr. Chairman: Mr. Peterson, in view of the fact the committee has already structured its business for today, in view of the time that we are usurping from the estimates of the Justice policy field, I am afraid I am going to rule that—

Mr. Peterson: Mr. Chairman, before you make a judgement, be very careful you do not make a serious mistake. You just said it was in order, now you are saying it is not in order and then you are saying if it is short I am in order. What are you saying? You have a responsibility to all members of this House.

Mr. Chairman: I asked you quite politely if you could be brief in your presentation.

Mr. Peterson: What is brief?

Mr. Chairman: I do not consider brief to usurp more of the committee's time than half an hour this morning. That is my opinion.

Mr. Peterson: I will not take more than half an hour. I said I would take 10 to 15 minutes.

Mr. Chairman: You have already usurped some 21 minutes.

Mr. Peterson: That is because we got into a procedural wrangle because of your handling of this committee, Mr. Chairman.

Mr. Chairman: We are in a procedural wrangle, if that is how you choose to describe it, because you have chosen to come here this morning and enter this motion to the justice committee.

Mr. Peterson: It is very much my right under the rules of this House.

Mr. Chairman: You knew full well we had already ordered our business for today.

Mr. Peterson: You fully understand you have the capacity and the power to reorder the business any time you so choose; at least the committee has that power. There is no one suggesting you should violate the rules. The rules are very clear; and if you are making a judgement we have fully heard discussion of my motion, I would suggest you exercise some caution before you exercise your judgement in that regard, I think we have a right to be heard here.

Mr. Breithaupt: Perhaps we could agree to 10 minutes?

Mr. Chairman: I will permit you a brief amount of time to explain your motion.

Mr. Peterson: Mr. Chairman, as I said earlier, this is the first opportunity we have had to have a discussion of reports of the registrar because they have been filed so late. Indeed, a full five months have passed since the registrar of loan and trust corporations took control of the assets of the three trust companies, Crown, Greymac and Seaway. There has still been no explanation for the negligence on the part of the Ministry of Consumer and Commercial Relations, or why these companies were not monitored.

During this interim period I have brought to the minister's attention my concerns regarding the activities of two other trust companies, Dominion Trust and Continental Trust, that are lending depositors' funds through mortgage loans which appear to be in excess of the 75-per-cent-of-the-value rule, stipulated in the Ontario Loan and Trust Corporations Act.

I am very much concerned that there appears to be a pattern of overmortgaging that involves several trust companies and I am very determined to find out why these practices are occurring, even in the very recent past, right under the noses of our provincial regulators.

The trust companies affair involving Crown Trust, Greymac Trust and Seaway Trust is inevitably tied in most people's minds to the large Cadillac Fairview apartment building flip. However, what is often overlooked is the poor state of the mortgage portfolios of these companies, particularly Greymac and Seaway, excluding the large mortgage funds advanced by these companies for the big deal.

I want to remind you, sir, of the following facts, because I am sure they will persuade members of this committee. Greymac Trust had a total mortgage portfolio of \$192 million, \$78 million of which was Kilderkin related, and most if not all of which had been determined to be loans in violation of the Ontario Loan and Trust Corporations Act. Of this \$78 million, only \$20 million was advanced for the Cadillac Fairview deal. Similarly, Seaway Trust had a mortgage portfolio of \$273 million, \$151 million of which was Kilderkin related; and here again, most if not all were in violation of the act. Of this \$151 million, \$76 million was advanced for the Cadillac Fairview deal.

All of this predated the Cadillac Fairview deal for up to a two-year period. In fact, on the basis of current information, Greymac Trust and Seaway Trust had more bad loans and deals outside of the Cadillac Fairview transaction

than were related to the big apartment flip. We know that most of the non-Cadillac Fairview loans took place prior to the large flip and, indeed, we have provided many examples of this going back to November 1980.

In the case of Greymac Trust, we are aware that this company had been subjected to an examination by the registrar's staff in June and July of 1982 and had been placed on a monthly renewal licence since July 1, 1982. Greymac Trust was returned to an annual licence status on October 29, 1982, despite several serious concerns raised by the registrar's staff in a letter to Greymac Trust on that very same date.

I have, on many occasions, outlined the extensive regulatory powers and responsibilities assigned to the registrar under the relevant statute so that he can effectively regulate the conduct and business practices of provincially licensed loan and trust corporations.

These responsibilities include the duty to prepare an annual report to the minister showing the particulars of the business of each loan and trust corporation, based on statements filed by the ministries and any information gathered through inspections or inquiries. It includes the duty to visit, at least once annually, the head office of each corporation, and inspect and examine the statements of the conditions and affairs of each corporation. It includes the duty to ascertain precisely what assets are allowed to be reported by these companies pursuant to the act. The registrar also has the power to examine the books of any corporation at that time, to require independent appraisals to be done on any property held or mortgaged by the relevant company.

This is just a quick summary, Mr. Chairman, of some of the registrar's powers, duties and responsibilities. I suggest a reading of the act, sir, would be very meaningful to you. As legislators, I feel it is our responsibility to ensure that the duties assigned by statute to regulatory bodies are properly carried out.

Given the recent history of financial crashes of companies coming under the auspices of the ministry—we are all familiar with Astra/Re-Mor, Argosy, Co-operative Health Services of Ontario and a variety of others—it is incumbent upon us, you must admit, to get to the bottom of this regulatory malaise once and for all. As members of this committee, I am certain we are all aware of the numerous issues and questions pertaining to the trust companies affair.

I want to bring to your specific attention today a matter that has not yet been raised or

discussed publicly, but one that bears very heavily on ministerial responsibility in this matter. That is the examination procedures of the staff of the registrar. I think it is very important to emphasize to members of this committee the exacting investigative procedures that are required of the registrar's staff in the performance of their annual inspections of each loan and trust corporation.

My purpose here is to show that the examination procedures contemplate a very thorough analysis of the state of affairs of each registered company. The very obvious and very important question is, were these mandatory checks followed in the case of the trust companies? If not, why not? If yes, then why was action not taken to prevent the calamitous events that broke last fall? I think we are entitled to answers to these questions.

I have here a copy of the examination manual, which I invite members of this committee to review. In addition, my staff has prepared a backgrounder regarding the manual and its relationship to the state of affairs found at Greymac Trust and Seaway Trust. I want to focus for a moment on the examination manual.

The procedures call for two inspections: One, a desk review on the relevant company documentation and, two, a field examination conducted at the company's head office. The manual lists items that must be checked and either verified or commented upon by the investigators. There are over 100 such individual specific checklist items. They include a detailed examination of the company's mortgage portfolio, including looking for mortgage loan concentrations, investments and valuations that are contrary to the act. In other areas, the regulators must turn their minds to the business practices, management and internal control of the company.

In sum, I repeat to you, there is a very thorough procedure to review the activities and investigate the company. Again, I invite you and the members of the committee to refer to the backgrounder prepared by my staff with respect to the investigations.

I would like to take a moment to bring you up to date on the Greymac Trust and Seaway Trust situation. As you know, on April 19, 1983, the minister released reports by Touche Ross concerning these two companies. Touche Ross had been investigating the affairs of the two companies since January 7, 1983. The Touche Ross reports were highly critical of the bookkeeping and lending practices of the two firms.

My staff, in the backgrounder, have juxtaposed several of the findings of Touche Ross with respect to Greymac and Seaway against specific items that normally should have been subject to scrutiny by ministry investigators during the usual course of their ongoing inspections. The question truly cries out: Was this done or was it simply ignored for one reason or another?

10 a.m.

We are talking about tens of millions of dollars of mortgage loans representing, I need not remind you, tens of millions of dollars of depositors' money. It is a very serious matter, and even more so, unfortunately, since this ministry in the very recent past has been seriously remiss in the performance of the responsibilities assigned to it through several provincial statutes.

I believe the time has come for this committee to exercise its jurisdiction and begin to conduct a legislative inquiry into this whole sorry mess.

I remind members that it was the justice committee which undertook to examine the government's role in the exercise of its regulatory duties in the Astra/Re-Mor collapse, an inquiry cut short after two months when the provincial election was called.

Just as in the case of the Astra/Re-Mor inquiry, this committee can call on government witnesses, government documents and the minister himself. And as in the case of the Astra/Re-Mor inquiry, the committee can govern its affairs so as to not unduly interfere with any ongoing court proceedings. I remind members that during the Astra/Re-Mor inquiry there was ongoing civil and criminal litigation as well as a police investigation.

Our sole function, and our only proper function, is to evaluate the regulatory response of the minister to this situation. I put it to you that there is no other forum where we, the legislators, can obtain answers to these pressing questions.

Just recently I placed a question on the order paper, requesting copies of the examination files of the ministry regarding Greymac Trust and Seaway Trust. The minister declined, indicating that "it would not be in the public interest to do so."

Surely it is in the public interest to know what happened. If the minister's concern was civil litigation, it is obvious the release of these files could only prejudice the government's case. Surely it is more important to get to the truth in

this matter than to cover the government's backside.

Some of you may say we should wait for the results of the minister's internal review, or his white paper or the results of the Morrison special inquiry. I suggest that where billions of dollars of assets were seized by the government, where there is strong evidence to suggest the government may have been negligent in the performance of its duties, the results of three private studies are not sufficient.

Given the magnitude of this issue and given that it follows on the heels of several similar regulatory failures, this matter cries out for a full public review. The issue is complex and it involves considerable input.

I think it would be most appropriate that this committee begin its inquiry; indeed, these studies, when released, can and should be referred to this committee. Let us have no misapprehensions; our work would require several months and should expect input from all sources.

I suggest that given the size of this mess, to do anything less would be a serious dereliction of the duties we have as legislators, and that this is the appropriate forum. I am asking the support of all members of this committee.

Mr. Chairman: Mr. Peterson having given his statement in support of his motion, I ask committee members whether they are prepared to proceed with the vote on his motion.

Mr. Renwick: Mr. Chairman, on a point of order: I know it is the intention of the committee to complete the estimates of the Provincial Secretariat for Justice today. The estimates of the Ministry of the Attorney General do not start until next Wednesday.

This committee is normally scheduled to sit tomorrow afternoon but does not have any business before it tomorrow afternoon. Is it in order to move that the motion of Mr. Peterson —

Mr. Chairman: There is a motion on the floor. If you prefer to make such a motion after we have completed dealing with Mr. Peterson's motion, so be it; but I think we should proceed.

Mr. Renwick: I am still speaking to my point of order. I am not an expert on these procedural intricacies, but I would be interested to know —

Mr. Chairman: It seems to me that during your point of order you started to propose a motion.

Mr. Renwick: I do not want to propose it, but would it be in order, sir, given that this committee does not have any business scheduled for tomorrow, if a motion were made that Mr.

Peterson's motion and consideration of his statement take place in this committee tomorrow afternoon?

Mr. Chairman: Mr. Renwick, I think we will deal with that matter just as soon as we have dealt with Mr. Peterson's motion. There is a motion on the floor. I have let you go on at some length with respect to your point of order.

Does every committee member understand Mr. Peterson's motion?

Those in favour of the motion?

Ms. Fish: Mr. Chairman, can I understand who are voting members of the committee this morning?

Mr. Chairman: The only substitution I have is Mr. Peterson for Mr. Elston.

Mr. Breithaupt: Do you wish a recorded vote, Mr. Chairman?

Mr. Peterson: Perhaps other members would like to speak as to why this is out of order.

Mr. Chairman: I believe we have already started the vote, Mr. Peterson.

Those in favour of the motion?

Those against the motion?

Motion negatived.

Mr. Mitchell: Mr. Chairman, with respect to the Leader of the Opposition —

Mr. Renwick: On a point of order, Mr. Chairman: I would move that the motion of Mr. Peterson be taken into consideration by this committee tomorrow afternoon.

Mr. Chairman: The motion has already been defeated, Mr. Renwick.

Mr. Renwick: The motion, sir, was that the same report be considered by this committee beginning today so that this committee may conduct an inquiry.

Mr. Mitchell: Mr. Chairman, I move that the question be now put under standing order 36.

Mr. Renwick: We were voting on the question of whether or not it would be taken into consideration beginning today.

Mr. Chairman: Mr. Peterson's motion has been defeated.

Mr. Renwick: My motion, sir, if I may move it, is that Mr. Peterson's motion be taken into consideration beginning tomorrow at the regularly scheduled meeting of this committee. I so move.

Mr. Chairman: Does everybody understand Mr. Renwick's motion?

Those in favour of Mr. Renwick's motion?

Those against the motion?

Motion negatived.

Mr. Chairman: The motion was defeated by a vote of 6 to 3.

We should now proceed with the estimates—

Mr. Renwick: Mr. Chairman, on a point of order: Under the rules of the House, this report stands referred to this committee. What is the status now of that reference?

Mr. Chairman: It will be up to the committee to order its business, as usual.

Mr. Peterson: Is the government going to continue to stonewall and not hear this report that has been referred by the Legislature?

Mr. Chairman: Mr. Peterson, I cannot answer that. We have dealt with the motions put before us this morning—

Mr. Renwick: Again, may I ask a question? Is the matter on the agenda of this committee?

Mr. Chairman: Yes, it is.

Mr. Renwick: And when will it be taken into consideration?

Mr. Chairman: That is up to the committee to decide. As I understand it, we have structured the business so that we are dealing this morning with the estimates of the Provincial Secretariat for Justice; then the Attorney General's estimates will be—

Mr. Renwick: What business will we be conducting tomorrow, sir?

Mr. Chairman: Committee members agreed last week, unanimously, I might add, Mr. Renwick, that we would be sitting today—

Mr. Renwick: I understand that. I agreed with that.

Mr. Mitchell: Mr. Chairman, on a point of order: The motion put forward by Mr. Renwick has been dealt with. I suggest that we are now in order to proceed with the estimates.

Mr. Chairman: I quite agree. We are now proceeding with the estimates of the Provincial Secretariat for Justice.

Mr. Peterson: Mr. Chairman, on a point of order: It has been referred; what do you feel are your responsibilities as the chairman of this committee? Just to never deal with it?

Mr. Chairman: No. I think the committee has already structured its own business.

Mr. Peterson: And you are going to accede to the Tory stonewalling and never deal with this issue?

Interjections.

Mr. Peterson: That is what is happening; it is being orchestrated by the parliamentary assistant, who does not understand the issues anyway but is just here to defend an incompetent ministry.

Mr. Gillies: On a point of order, Mr. Chairman: The Leader of the Opposition knows very well this matter was referred by the House to the committee and remains on the docket for this committee to deal with. Obviously the feeling of the majority of the members on this committee this morning is that now is not the appropriate time to deal with it. The Leader of the Opposition himself said in his statement that there were inquiries going on, including the Morrison inquiry, the internal ministry—

Mr. Peterson: You have not argued that. Argue the case, if that is your point. You just sit there with a stone face and do not respond. Give us something legitimate—

Mr. Chairman: Order, please.

Mr. Gillies: If you will give me a few seconds, I am trying to respond to your point that there is stonewalling—

Mr. Chairman: Mr. Gillies, order.

Mr. Gillies: The reference remains on the docket; when the majority and when the committee itself—

Mr. Chairman: If the committee wishes to structure its own business, it may do so next Wednesday, June 15.

Mr. Peterson: Bud Gregory has instructed you to vote against it, and that is what you are doing. Is that the position of the government?

Mr. Chairman: I am suggesting that we are proceeding this morning with the estimates of the Provincial Secretariat for Justice. The provincial secretary has the floor.

10:10 a.m.

Mr. Renwick: Mr. Chairman, on a point of order: May I ask that you make a note of the time when the Provincial Secretary for Justice commences the consideration of his estimates?

Mr. Mancini: Mr. Chairman, with all respect, I think we deserve some consideration as to when the majority of the committee feels we can deal with this most important matter.

Mr. Chairman: Mr. Mancini, the motion has been dealt with. The committee can deal with

its own business at the next sitting of the committee.

Mr. Mancini: There are tens of millions of dollars in jeopardy. We have had scandal after scandal with this trust company affair—

Mr. Chairman: Mr. Sterling has the floor, Mr. Mancini, and is proceeding with his opening statement. I suggest that you give him the courtesy and respect he deserves. Mr. Sterling.

Hon. Mr. Sterling: Thank you very much.

Mr. Mancini: I do not understand why Mr. Mitchell, who is the parliamentary assistant, cannot inform us in a very practical sense when he—

Mr. Chairman: Mr. Mancini, you are out of order.

Mr. Mancini: I realize that but—

Mr. Brandt: How long are you going to continue if you are out of order? We have heard your case a number of times on the part of you and your colleagues. We have dealt with it. We have voted on it. We are not prepared to proceed at this time for reasons that have been made very clear.

Mr. Peterson: You have not given us one reason why you—

Mr. Mancini: Not a single reason.

Mr. Brandt: We have given you the opportunity to make your opening statement. I think we have been entirely flexible in this matter.

Mr. Peterson: Respond to it. Why will you not go for it?

Mr. Brandt: There are a number of reasons, and one reason—

Interjections.

Mr. Brandt: This committee has decided not to proceed with your discussion at this time. You have decided that is your priority. It does not happen to be the priority of this committee.

Interjections.

Mr. Chairman: Order, Mr. Brandt, Mr. Peterson and Mr. Mancini.

Mr. Brandt: You cannot come in here and order business according to your schedule whenever you want to.

Interjections.

Mr. Peterson: By order of the Tory government; that is the point. You have not given one logical reason. You are being—

Mr. Chairman: I ask all committee members—

Mr. Peterson: Do not kid me, Mr. Brandt. I understand how this system works.

Interjections.

Mr. Gillies: Business was ordered before this committee this morning, Mr. Peterson. Are you here to discuss that business or are you here to posture before the cameras? I tend to think that is your priority this morning. The impression you are leaving is that your priority is not the business this committee ordered this morning but posturing before the cameras, and you know darned well that is the case.

Mr. Chairman: Order.

Mr. Peterson: Let us agree to do it tomorrow.

Mr. Chairman: Gentlemen and lady of the committee, I suggest that all committee members show the respect for each other that they are purporting to represent here this morning in asking other committee members their indulgence. I am speaking to all committee members of all parties now.

Surely, if we get to the point where committee members are merely haranguing and arguing back and forth without any sense or semblance of order whatsoever, we have lost respect not only for this committee but also for the institution and the reason for which we are here in the first place as elected representatives.

Mr. Mancini: Mr. Chairman, I have a point of privilege—

Mr. Chairman: Mr. Sterling has the floor. He was given the floor some moments ago and he is proceeding with his opening statement on these—

Mr. Mancini: Mr. Chairman, my point of privilege is whether the committee members will give some consideration as to setting a date for dealing with the matter that has been referred to this committee by the House.

The gentlemen and the lady here today say that today is not the proper date and that tomorrow is not the proper date. We have not heard yet whether next Tuesday is the proper date. Can we have some indication from the members of the committee as to when they feel the proper date is for dealing with the request—

Mr. Chairman: I believe I indicated a few moments ago, although it may have been lost in some of the discussion going on, that the committee may quite properly consider next Wednesday, June 15, what business it wishes to deal with.

I am merely pointing out that estimates from several ministries have been referred to com-

mittee and that commencement dates for these estimates have been suggested and agreed upon.

There was a motion made today by Mr. Peterson, your leader. There was another motion made by Mr. Renwick. Both have been defeated. It is quite in order, I suppose, for any committee member to make a motion at any future meeting of the committee as to what he would suggest the order of business should be; but the order of business having already been agreed on by committee, it is up to the committee to decide whether they want to divert from that. That is open at any time. I do not—

Mr. Mancini: As to my point of privilege, possibly Mr. Mitchell could shed some light—

Mr. Mitchell: I do not direct the committee's deliberations.

Mr. Chairman: Mr. Mancini, I really do not see—

Interjections.

Mr. Mancini: Mr. Mitchell moved two motions to stop the review of the events that took place—

Mr. Chairman: I really do not see where any privileges of yours as a member have been unduly or unjustly dealt with. We are proceeding this morning with the estimates of the Provincial Secretariat for Justice, and I ask the provincial secretary to proceed with his statement.

Mr. Mancini: Mr. Mitchell was very anxious for us not to pass this motion. Possibly he would be just as anxious to tell us when it would be most appropriate to hear—

Mr. Chairman: Mr. Mancini, I have heard your point. I have ruled your point not to be a point of privilege; you are out of order. Please proceed, Mr. Sterling.

ESTIMATES, PROVINCIAL SECRETARIAT FOR JUSTICE

Hon. Mr. Sterling: Mr. Chairman, members of the committee, I am glad we are starting off on such a light note this morning.

Mr. Brandt: Welcome to justice.

Hon. Mr. Sterling: May I say that the procedural wrangles remind me of the last time when I sat as a member of this committee back in January and the first two days of February 1981. At that time, Mr. Chairman—you would not know because you were not a member then—the shoe was on the other foot in terms of how things went during that time. I hope someone will look back in Hansard and perhaps review some of the procedural motions that went on

during that month of January and see perhaps how fairly the matter is being treated at this time.

Because I was so involved in that, and before I go into my opening statement, I think it would be good for the committee to look at the historical reasons for referring an annual report to a committee of the Legislature. That change in the rule took place as a result of the Camp commission. The reason for referring an annual report to a committee, as I understood it, was to have the annual report in front of the committee prior to the estimates of that ministry. It was not a carte blanche approval for the committee to consider anything and everything it wanted, which might be contained as the subject matter of that annual report.

Somewhere along the line someone should put his mind to what are the exact reasons for putting an annual report to a committee. It was always my understanding back in those days that the House was to order the business of the committee and the committees were constrained to some degree by the instructions of the House. Maybe some members would like to look over the historical context of why the review of annual reports was given to the committees. I argued that at that time, but unfortunately because we were in a minority position the investigation made a wide range away from what I thought was the intent of why the annual report was in front of us.

First of all, I would like to introduce two of my staff. On my immediate left is Ruth Cornish, who has been very active in the policy areas where we have taken some recent initiatives. To Ruth's left is Bob Harris, who can advise the committee on financial data which they may be interested in dealing with as a result of the secretariat's financial position.

I welcome this opportunity to bring the members up to date on some of the new initiatives which our secretariat has recently undertaken. I must emphasize, however, that I am going to mention only a few of the activities in which the secretariat has been involved and will not limit or ask you to limit in any way questions, concerns or issues you might want to raise about other matters with which my ministry is charged.

10:20 a.m.

One important aspect which I might indicate to you in the secretariat is that my deputy minister, Donald Sinclair, retired on October 31. I had a new deputy appointed on January 1, Mr. John Hilton, who retired on May 31; so

during the past year I have had more involvement in the running of the ministry than maybe I would even want.

Mr. Renwick: You should take it upon yourself to appoint a new deputy.

Hon. Mr. Sterling: I am actively involved in making suggestions for the same. In fact, because I was doing two jobs at the same time, I suggested that the compensation for the ministry might be altered during these trying times.

One of the more important initiatives I feel the Justice secretariat undertook was the declaration of a Community Justice Week from April 17 to 23, 1983. When we declared this week, it was obvious we were building upon some pretty solid ground. We have received a tremendous response from various communities across our province.

For the four months prior to Community Justice Week, we worked closely with some community groups, the business sector and other justice officials to promote the theme that justice is indeed a shared responsibility.

The week of April 17 was also significant, as many members are aware, in that it not only marked the beginning of Volunteer Week, but April 17 also was the first anniversary of our Constitution.

The motto adopted by the Canadian Bar Association, "The law belongs to you," really complemented the emphasis that some 70 communities placed on Community Justice Week.

In expanding on the justice week concept in 1984, it is our intention to link Ontario's bicentennial through the historical, legal and democratic traditions upon which our justice system has been founded.

I am confident this educational outreach will assist in alleviating some of the existing pressures which we find on the justice system.

As many members are no doubt aware, the greatest pressure on our justice system comes from the under-25 age group, primarily the single males. This group comprises by far the bulk of people dealt with by the police, the courts and our correctional institutions; in fact, 60 per cent of our more serious criminal offences are committed by the 16-24 age group.

In this regard, during the past few years we have witnessed a change in attitude towards juvenile crime. Demands have been placed on our laws for new legislation to treat these juveniles as being responsible to the justice system and to society as a whole. This change in attitude has brought forward an amendment to our existing juvenile law; in the spring of 1982

the federal government passed the Young Offenders Act.

For the past year and a half, I have been directly involved in negotiations with the Solicitor General of Canada on this matter. While Ontario would like to conform to the spirit and intent of the new law, we find ourselves faced with the harsh reality of having to address the tremendous financial burdens which this act will place on our province.

Mr. Kaplan has clearly stated that the thrust of the Young Offenders Act is a judicial one. When I appeared in front of the Senate committee in Ottawa, it was reinforced to me that this was the intent of the senators and of the Commons when passing the law.

The paternalistic approach which supported the Juvenile Delinquents Act has given way to a new justice model which attempts to strike a reasonable balance between the needs of young offenders and the interests of society.

When I met with Mr. Kaplan last March, I emphasized the urgency of resolving any financial uncertainty with respect to a cost-sharing agreement between our government and the federal government. It was only at the end of March that I received a letter from Mr. Kaplan, in which he simply outlined the general parameters of a funding proposal.

Unfortunately, these parameters do not reflect the type of commitment which Ontario has been seeking.

In his correspondence, Mr. Kaplan has stated that the time for this type of legislation is long overdue and that he is convinced the Young Offenders Act will result in a "more equitable and effective justice system." With this we all agree.

The federal Solicitor General, however, goes on to state that the Canadian government is not prepared to provide financial assistance for increased policing, prosecution and court costs. In addition, Mr. Kaplan states that "federal financial assistance for the construction of new facilities will not be considered." As the Provincial Secretary for Justice, this has caused me and my colleagues in the Justice policy field considerable concern.

Upon receipt of this correspondence, at Ontario's request an interprovincial meeting of officials took place on May 4. As a result, a lengthy list of questions was sent by this province and other provinces to the federal government requesting clarification of the meaning of some parts of the new legislation. On June 3 we received a response from the federal govern-

ment. However, numerous important questions remain unanswered.

Mr. Renwick: Can we have copies of that exchange?

Hon. Mr. Sterling: I will take that under consideration, Mr. Renwick. I am not sure of the confidentiality of that correspondence.

As a follow-up, a second meeting of officials was called and is taking place today. In this regard, a federal-provincial justice ministers' conference will take place on July 11 and 12, to discuss not only this matter but other matters of mutual concern as well. We in Ontario have indicated that we will place the Young Offenders Act very high on the agenda, as we are anxious to progress with substantive negotiations as quickly as possible so we can implement this new piece of legislation.

In the past year, the secretariat has completed two statistical publications on the justice system. I have those two publications with me, and I believe you have received copies. They are books that look like this, gentlemen.

I might just point out to members that these statistics have been extremely valuable in providing to the federal government and to my colleagues in Ontario the necessary data during our cost-sharing negotiations on the Young Offenders Act. In fact, a new chapter was added in Justice Statistics, Ontario, 1982, containing extensive juvenile delinquency data for the three sectors of the justice system.

I would now like to turn my attention to another area where the secretariat has provided not only a co-ordinating function but has also initiated some new policy directives.

Over the course of the past five years, the Provincial Secretariat for Justice has undertaken a wide variety of initiatives to improve services to victims of sexual assault. The most recent was the introduction of the 1981 standardized sexual assault evidence kit for use on a province-wide basis. I think many of you know that evidence kit has been very well received not only by our jurisdiction but also by many other jurisdictions.

As members of the committee may recall, last week I announced in the Legislature a pilot project that my office had undertaken to test a newly developed child sexual abuse resource kit. The need or the demand for this kit came out of our development of the adult sexual evidence kit. We hope this kit will be available in eight communities across this province, to be named either later this month or in early July.

Although various jurisdictions may have in use different components of this kit, I believe

this co-ordinated package is the first of its kind, not only in Ontario but in all of Canada.

Under the chairmanship of Ruth Cornish, whom I introduced earlier, a technical working group was established in January with the involvement of several government ministries. In addition, this group consisted of representation from the children's aid societies, physicians, both the Ontario Medical Association and the Ontario Hospital Association, and the Ontario Provincial Police.

10:30 a.m.

Essentially, the mandate of the committee was to develop the kit and to provide very detailed, step-by-step procedures to be followed when child abuse is discovered or suspected.

May I say at this juncture that although we have developed what I consider a first-class child sexual abuse resource kit, we are still looking for improvements. That is why we are going to a test procedure first. We hope to draw on the experience of the many professionals out in the communities to improve that kit before we move to a province-wide basis.

Perhaps at this juncture, before I finish the remarks as written, I will show the members of the committee the actual kit. As you can see, it is contained in a cardboard box and it will be of some colour. We have produced 100 of them at a cost of somewhere between \$150 and \$200—

Mr. Kolyn: Each.

Hon. Mr. Sterling: —each. It is our hope that once we develop the final model of the kit we will perhaps have a plastic or a more hardy carrying case for it. One of the very important and significant features of this particular kit is that it differs from the sexual evidence kit that we developed earlier. The sexual evidence kit was to be used once when investigating one case. We hope this particular kit will be opened again and again because it will be used not only as a resource tool for the professionals in the area, but as an educational tool as well.

Mr. Kolyn: Could you pass it around so we can have a look inside.

Hon. Mr. Sterling: I was going to open it up for you.

Mr. Kolyn: Maybe I missed something.

Hon. Mr. Sterling: The kit contains three anatomically correct dolls which have been made locally. We have drawn upon the experience of the same kind of idea in the production of anatomically correct dolls from various jurisdictions, but we were able to make or have them

produced on a much more economical basis here and we think these are far superior to the ones available on the commercial market.

I will let the members play with the dolls later.

Mr. Kolyn: Better watch which one you are playing with.

Hon. Mr. Sterling: For instance, you will notice it shows the hair on the chest and under the arms. I do not think I need go further without first consulting with Mary Brown. When we make the final kit, we will probably add mother as well, to go with it, although most of the abuse—I would say not most, but 99 per cent of the abuse does not involve the mother. The use of these dolls will be to ease the situation between the child and the worker who is involved with the child, so the child can relate what happened to him or her and feel somewhat comfortable with a stranger when talking about a delicate matter.

Also a child does not have the kind of vocabulary that is necessary to describe exactly what has happened during this abuse and assault.

Mr. Breithaupt: Having a mother doll might be comforting in that whole scene.

Hon. Mr. Sterling: Yes. I think that is why we are leaning towards it in terms of exploring the whole family situation in a story sequence.

The other use of the dolls will be perhaps, and Mr. Renwick and Mr. Breithaupt would be particularly interested, in a courtroom scene where it is necessary to use a child as a witness because that is the only source of information as to the abuse. They have been used in some courts in British Columbia, as I understand, to explain to the judge or the jury exactly what happened and in telling the story to a courtroom.

These are perhaps the most graphic or the most exciting parts of the case I am showing to you, but the more important parts of it perhaps are the resource materials with it. What we would expect is that the dolls would be available in a certain area, because they comprise most of the cost of this kit, but as well, we may produce the written material for a larger audience than we do the total kit.

Mr. Renwick: I hope you would do that. It seems to me to make a lot of sense to distribute the written material broadly.

Hon. Mr. Sterling: Yes. We have had a great deal of co-operation from the Ministry of Community and Social Services in providing us with assistance in making this material available to us. There has been what I consider to be just an outstanding training program manual on sexual

abuse written by Ross Dawson for the Ministry of Community and Social Services.

There are also a number of other source materials to deal with the role of the police, the role of the physician and also the prevention part of this problem. There is also some other resource material. I believe this one was written by a professor at the University of Toronto.

Going along with that sort of background resource material, we also have produced some very practical tools. We have about six or seven plasticized sheets which outline, first, the principles and philosophies to guide the investigation of an assessment of child sexual abuse, and then a checklist for each of the people or professions which might be involved with this problem.

One of the key problems we have with child sexual abuse is the problem the child faces during the process, and the very first principle is that every child reporting an incidence of sexual abuse should be presumed to be telling the truth. Anybody questioning the child must not take the role of cross-examining that child as a given. We do not want an attack on the credibility of the child to frighten that child away. In fact, we find that false accusations by children are quite rare.

I think it is important, too, to outline the thrust of this kit. Although it was produced by the Provincial Secretariat for Justice because I thought we were in the best co-ordinating role to get all of the groups together, I would like to read to you the objectives.

The objectives of any intervention are: first, to protect the child; second, to ensure the abuse is not repeated; third, where appropriate, to engage the child and the family in some treatment programs; fourth, to minimize the emotional trauma for the child.

The four things are not in order of priority. I would probably say the fourth, the last one I mentioned, is the primary one, at least in my mind. The last objective is to ensure the accountability of the offender so that while it is a justice matter, we are most concerned with limiting the situation.

The other plasticized sheet is a police checklist for the sexual abuse occurrence. One of the chief matters this kit deals with is to try to make certain that each professional understands what his role is, when he is crossing over into another role and when he should call for help and have somebody else in.

10:40 a.m.

What we do not want to have happen is for one professional to come in and do the questioning, then have the child go along to the next professional to go through another interview, then go through a third one, etc., thereby confusing and making the situation very traumatic for the child; in other words, making it worse than it was originally.

The first point for the police, upon receiving information and having reasonable grounds to suspect that sexual abuse of a child has occurred, is that the investigating officer should contact the local children's aid society special worker, where available. The second point is to arrange for an interview with the child. The interview should be conducted jointly by the police and the child protection worker and/or any other professional, if appropriate. Then the list gives more points as to how this should be carried out. We have a physician's checklist; we have a children's aid society worker's checklist; and we have the crown attorney's role in this particular matter as well. So we have a number of resource documents.

I indicated I would not be able to provide the dolls to the opposition parties because the materials are relatively expensive. I did agree I would provide each caucus with a copy of the written material, and they can come to my office and deal with the dolls, or look at them if they so prefer. Also, when my staff appear in front of the standing committee on social development, I believe next week, they will explain the use of this kit.

I have some other matters. It is up to the group whether they would like me to continue, and then we can go back and ask questions about this.

Mr. Kolyn: Mr. Chairman, might I ask a question before the minister proceeds? He is currently saying that we are going to be using that basic standard kit, but if another doll is added, it would seem the type of box will have to be redesigned; it would have to be something larger. Is that right?

Mr. Breithaupt: I think bigger boxes are available.

Mr. Gillies: Or smaller dolls. Would this kit be available to a children's aid society in a municipality? What agency is intended to use this?

Hon. Mr. Sterling: By the very definition of what the kit is to achieve, it would be available not only to children's aid societies, it would be available in any one community at the police

station or precinct that would be involved or closely associated with the hospital. It would also be available at the hospital, and I hope it would be available to physicians who are working with the police on a particular problem. It is an interdisciplinary kit. That is a hard word to say, but the idea of the kit is to try to define the different roles and recognize that a number of professions have a significant role to play in the utilization and the addressing of the problem.

Last, in terms of the kit, I think the secretariat and the professionals can achieve a number of things. My hope is that, when we introduce this into eight communities across our province during the summer, I will be able to get the professionals who will be dealing with the problem into the same room. I hope that by focusing their attention on this and by them rubbing shoulders with each other during the presentation, we will have a clear understanding between them, lessen professional jealousies and avoid the kind of duplication that can occur in questioning a child over and over again and making it more of an ordeal than it need be.

Mr. Gillies: What is the approximate cost of one of these kits?

Hon. Mr. Sterling: I indicated it was somewhere between \$150 and \$200. The anatomically correct dolls are the most expensive part because they have to be made, of course, on a custom basis, but we have, through the work of Ruth Cornish, been able to minimize that cost; in fact, these dolls cost half of what commercial ones available in the United States cost. They still are expensive.

Mr. Gillies: Does an agency, such as a hospital or a children's aid society, requesting a kit assume the cost, or does the ministry?

Hon. Mr. Sterling: During the test period, we are going to provide about a hundred kits to the eight communities. After that period of time, we have not really worked out how the costing will take place. It is our hope, or it is my desire to have a significant portion picked up by whatever agency is going to use it. The last thing I want is for a kit to be put on a shelf and not used. It was indicated to some of the members, perhaps when you were out, that one of the key elements of this kit is its educational value. We want that kit to be opened and closed as many times as possible. The people looking at the manuals will be addressing the problem. The problem will be brought up front, to the professions.

When we introduce this kit into the eight

different communities we are negotiating with now—and I say negotiating because we do not want to move in with a heavy hand into any of the communities that might agree to try this out. We need the full co-operation of the groups I mentioned—the police, the CAS, the physicians, the hospitals, the crown attorneys. We have to have a great degree of co-operation, and we want to get some good data back on how these can be improved, so when we spread it across Ontario, or we move to implement it across Ontario, we will have what I consider a model that is 95 per cent good, or 99 or 100 per cent good at that point. We are still asking for input.

We had a tremendous working group of what I consider to be just unbelievably dedicated people, in particular, the private people who put in enormous amounts of time between January and now to put this thing together. They put their professional jealousies in the background and said, "Okay, we have a problem, let's deal with it." I think it is a real credit to Ruth, who chaired this committee, that she and the committee did it in a very short period of time.

We were talking about a four or five month period. We have already had some reaction to the kit, and everybody agrees it is class 1. It's a really good effort. It's nice to know that in government, you can do things in a short period of time if you really put your mind to it.

So perhaps we can get back to questions later. I would like to finish my opening remarks, which should finish at 1:30 p.m.

Ms. Fish: That's when the estimates end.

Hon. Mr. Sterling: Yes.

Over the past few years, not only has this become a more important topic, but the problem of domestic violence has become the subject of a number of reports. Last November or December, the social development committee report on domestic violence, entitled *Wife Battering*, was tabled in the Legislature.

The report recommends a number of initiatives which have implications for both the justice field and the social field. It is in this regard that I, as provincial secretary, have undertaken the responsibility of co-ordinating the overall government response to this report.

10:50 a.m.

I am currently reviewing the matter with the affected ministries and I hope to be reporting on it in the fairly near future.

Briefly, I would like to turn my attention to

the area of regulatory reform, which comes under my jurisdiction.

Last January, I announced in the Legislature the formation of an interministerial committee to examine conflicting building regulations in Ontario. That committee, consisting of representatives from two ministries within the justice policy field and also from the Ministry of Municipal Affairs and Housing, sat with me for a period of three months.

Essentially, the primary focus of the committee has been to examine ways to simplify the process for those who deal with government in the construction of buildings, to eliminate any duplication which may exist and to resolve conflicting building requirements.

To this end I announced that, effective February 1, the building code branch was transferred from the Ministry of Consumer and Commercial Relations to the Ministry of Municipal Affairs and Housing.

There are further initiatives going on in the area of resolving further ministerial conflicts relating to building regulation and control.

At the present time, I am examining with my colleague the House leader the concept of an omnibus bill for introduction to the Legislature. This is not known as I have not made any public statement about it. I am sharing it with the committee for the first time.

The bill, which would perhaps be introduced in the fall session, would address legislative changes of a very minor nature.

In the past, due to time constraints in the Legislature, it was evident that housekeeping amendments, although important, were often postponed until after major issues were addressed. Although this prioritizing is certainly understandable, I believe an omnibus bill would not only save considerable time but would also improve the overall management of our government.

I do say, however, that any attempt with an omnibus bill has to be done with the co-operation of not only government members but also opposition members of the Legislature. It would be my intent to put forward a very flexible proposal to the House leaders of the government and opposition parties to find out their reactions to such an initiative before putting it in front of the Legislature.

In conclusion, I have attempted to outline a few of the many programs which the Justice secretariat has undertaken during this past year. During the year, I have enjoyed addressing the needs and challenges that have been presented

to me, but I am looking forward to the coming year and the increasing role the secretariat can play in the development of new policy initiatives in the Justice area.

Mr. Breithaupt: Mr. Chairman, when I reflect upon this superministry and its work, I am reminded of a quote from T. S. Eliot who wrote in *The Hollow Men* as follows: "Shape without form, shade without colour, paralyzed force, gesture without meaning."

I do not say that to be particularly cruel or divisive. I say it reluctantly because it is an inescapable conclusion from a review of the mandate and performance of the secretariat over the years. My observations do not relate to the intentions of the minister (Mr. Sterling) but rather to the structure which has been delivered into his hands and by which he is bound to perform his work.

Because of the time constraints today, my remarks will not be lengthy. The many ideas and issues which merit discussion will in any event find their forum in the upcoming estimates of the Ministry of the Attorney General and also of the Ministry of Consumer and Commercial Relations.

I have no intention of making any comparative expenditure analysis of the secretariat's budget this year with preceding years. The value to the government of the work of the secretariat seems to be well symbolized by the value of the dollars which the government has allocated to it.

The minister has alluded to various projects and issues in his briefing notes. He certainly is worthy of the committee's attention. Included among these is the impending proclamation of the Young Offenders Act and the many problems attendant to its implementation.

We read of the re-evaluation and possible redefinition of drinking and driving. Then the question of compensating both victims of crime and persons acquitted of charges is referred to. We also have a reference to domestic violence and even to a new approach to censorship and pornography.

I do not intend to deal with all those issues other than to have referred to them, with one exception; that is the one dealing with drinking drivers. There seems to have been a flurry of activity in these last few months with respect to public concern about the growing death and injury toll resulting from motor vehicle accidents in which alcohol is a particular theme.

I noticed in today's press clipping service several articles with respect to recent decisions,

one now by the Ontario Court of Appeal which was reported on June 6 in the *Toronto Star*.

Let me just quote briefly: "In a major decision, the Ontario Court of Appeal recently ruled a drunk driver must spend two years less a day in reformatory for an accident that claimed two lives.

"A lower court had given the 39-year-old Madoc man involved a one-year term."

The court decision reads partly as follows, "This is one of the worst examples possible for criminal negligence in driving." That article, written by Farrell Crook, goes on to review several other recent decisions which appear to encourage some of us to believe the courts are beginning to take a much more serious view of this whole theme.

Another article that comes forward is one dealing with a jail term reported in London with respect to a Raymond Bird who was involved in an accident which killed the father and mother of six children, as well as three brothers who were riding in his vehicle. The result of those five deaths was an 18-month sentence and a licence suspension for three years. As we are aware, the 18-month sentence really means a parole after six months.

Punishment has developed in some of the American jurisdictions to include the seizure of a vehicle involved and other particular means at getting to the attitudes and the interests of the persons involved.

Day after day we read in the press about deaths on the road. Front-page headlines were given, perhaps appropriately so, to the unfortunate Air Canada accident last week in which 23 persons died. Page after page reviews, not only by photographs but by interviews and summaries, the history of the persons who were involved, whether it was the crew or certain individuals who perished, and the loss those deaths brought to the community.

We were involved even in this Legislature in that event happening in Cincinnati when the Minister of Community and Social Services (Mr. Drea) referred to the most unfortunate death of one of his valued staff members. The front pages of each of Toronto's newspapers carried the same photograph of the aircraft on the ground with the paraphernalia, the firefighters and rescue people around it and, of course, the smoke and the turmoil.

11 a.m.

Yet if you look at the statistics with respect to the involvement of alcohol or even indeed with respect to the involvement of motor vehicle

deaths, it would appear that within the United States and Canada there is probably the equivalent of one of those accidents every two or three days. Yet that does not bring the same kind of response when it is all added up. As I understand it, within North America the number of drunken driving accidents every week is equivalent to having an aircraft with 75 to 100 people aboard crash every week.

Society would not put up with those problems if the headlines we saw in the media this past week were repeated every single week. The coverage would be so enervating and deadening to our belief of what is proper and appropriate that there would be an outcry that would demand, as an equivalent to changes in safety in aircraft, which are possible and to be encouraged, a crusade to deal with the deaths on the road that are the result of alcohol and its attendant problems in particular.

The courts are becoming somewhat more involved and the public too, I am glad to say, is looking more seriously at this theme, which is the equivalent of an aircraft crash every week in the year. That is one theme I hope the provincial secretariat will particularly consider as policy themes are developed and as the opportunity for educational meetings and conferences are set. I have thought one of the major roles of this ministry is to give the kind of educational leadership we have seen from the example today of the child abuse kit and the example last year of the rape kit that was prepared. The secretariat's involvement in those two areas is certainly commendable.

The involvement now is to go on to other themes such as—and it is only one of them—the whole redefinition I think our society requires of this Legislature and of those in authority to look at the carnage on the roads, as well as the other topics I referred to earlier.

In my view, the most important contribution the secretariat made last year to the administration of justice was the advice it proffered to the Premier (Mr. Davis) in preparation for the policy conference last summer. The minister will recall issuing the following warning to the Premier and the people of this province when he said:

"What should give rise to equal concern are the disturbing indications that an increasing number of citizens and citizen groups no longer believe that the justice system meets their expectations and are losing faith in the ability of our public institutions to cope successfully with crime and the criminal."

That quotation was certainly relevant as the thinkers within the Progressive Conservative Party of Ontario gathered to discuss the future of the themes with which government must meet. I see no evidence so far that the secretariat or the government have committed themselves, either financially or politically, to the rectification of the loss of this precious faith. What I see is a commitment not to the principle of excellence or the best possible effort always, but rather to a continuation of expediency. The public is the first to realize this, although unfortunately the public is the first to be cheated by this.

The phenomenon of expediency is nowhere more evident than the continuing approach we have seen to the issue of freedom of information and the protection of individual privacy. There is exactly one sentence devoted to the subject in the briefing notes to the estimates, and however stark that is, at least it is an increase of one sentence from the throne speech in which there was no reference whatsoever to the matter, and an increase because the minister in his opening remarks did not even refer to the subject.

What was the statement in the briefing notes? It was this: "It should be also noted that last December a draft bill on freedom of information and privacy was prepared by the provincial secretary, who is continuing to correspond with ministries and to meet with groups in government on this issue."

I would like to see the draft bill. Who are the ministries with whom the secretariat has had correspondence? What has been the gist of that correspondence? Who are the groups in government with whom the secretariat has met? What has been their response?

On May 10, I asked the minister a question regarding the true status of freedom of information on this government's agenda. His obviously pained and somewhat embarrassed answer then was very telling when he said: "I am still optimistic, however, that we are progressing on the matter. We still consider it of an important nature and that some of the commitments that have been made in the past will come to fruition."

This is the first time we have had on record a categorical statement by the minister responsible for freedom of information that not all of the government's promises on the subject may be kept. He has said "some of the commitments." So there are three questions to be asked. Which of the commitments will be kept and which will not be? Why has the government chosen to

withdraw its wholehearted support for the concept which was once considered so important that it spent well over \$3 million of taxpayers' money to study the issue? When will we finally know what the precise intention of the government actually is?

If the minister or any of his colleagues believe that by ignoring the matter or putting it aside it may somewhat fade from our consciousness, then certainly let me be the first to disabuse him and his colleagues of that notion in the strongest terms.

Last November the minister had the temerity to say to Miss Wendy Warburton of the Ottawa Citizen in an interview: "I have heard no questions or very few questions from the members on this particular aspect. I wonder how important it is to them. It is very important to me."

If indeed the particular aspect is so very important to the minister, then let him prove it to us and the citizens of this province. Let him produce his bill for public discussion. We are not asking for the impossible or the unreasonable. We are merely asking for and expecting proper and honourable conduct from the honourable minister. After all, when he made the presentation this morning of this kit to us, he said, and I think this is almost a quotation from his remarks, "It is nice to know in government that you can get something done in a short period of time if you put your mind to it."

That is a great quotation. That is almost one of the things we could fit into one of those plaques in the chamber that has yet to be carved. It is a great statement. It is an excellent attitude, but let us look back to freedom of information. It may be that what is now before this Legislature as Bill 6 is not the be-all and end-all—and I would be the last to pretend that it was—but it seems to be from our rather limited resources which are otherwise available to us, that we have been able to present at least something as a step forward which is yet to be matched by this government.

I submit to the minister that the loss of faith in the public institutions of which he wrote and spoke so eloquently and indeed almost so plaintively last year arises in the mind of the public out of precisely this type of behaviour by the government. Rather than being guided by the equitable use of power, we see a government consumed by the preservation of power. If the minister searches his heart, I know he will agree with me that so vital a modern issue in the era of computer chip technology and mass communi-

cation systems as freedom of information and protection of privacy must not be sacrificed to the dictates of expediency. We all deserve better.

11:10 a.m.

Finally, in that context, I would raise with the minister and with the committee an issue with which the secretariat has had no formal prior involvement, but which due to recent events must become an urgent consideration. I intend to raise this matter with the Attorney General (Mr. McMurtry) during his estimates.

As I commented earlier, the various themes of the Young Offenders Act, drinking and driving, compensation of victims and domestic violence are all particular and important topics. They are themes in which the ministry has a concern for its overview of Justice policy. They are not inexpensive subjects at all. Indeed, in an era in which we have somewhat fewer resources than we were blessed with in the 1960s and 1970s, there is a difficult decision to make when one looks at the provision of particular programs.

I am sure the member for Lakeshore (Mr. Kolytyn) was as surprised as I was to be told that what appeared to be a simple cardboard box with a few publications in it costs something in the nature of \$100 to \$200. If all the school boards and other groups wished to have them, I suppose the volume involved might perhaps bring that cost down.

Any one of these kinds of tools which are available are very expensive to sort out. For something as worthy as that particular item, we would see the commitment of hundreds of thousands of dollars if every school board, children's aid society, police station, medical association and hospital was provided with one or several of those. We are talking about a lot of money to try to resolve these problems.

Much to our regret, the availability of piles of money to throw at problems, even in the years when those piles of money were available, does not seem to have resolved many problems in spite of all the goodwill with which we vote vast sums.

There is an area in which educational involvement may be much more important than the expenditure of vast sums of money. That is the matter of bigotry and prejudice which grows within our society, unfortunately, and which has been referred to recently not only by the federal minister responsible, the Honourable James Fleming, but also by other thoughtful political leaders in this Legislature and elsewhere.

That is the threat posed to our community, in

the democratic society in which we live, of racism and particularly of a rather alarming rise in incidents and attitudes of anti-Semitism. We all share a background of coming from different ethnic or religious groups that have perhaps caused each of us on occasion to be the subject of some joke or some apparently harmless statement. Yet in many instances an attitude underlies this which must be rooted out, one which must constantly be something to guard against.

The review of anti-Semitism in Canada which was just available this week reports for 1982 a variety of incidents in Ontario and Quebec. It refers to 34 incidents in Ontario and 25 in Quebec, nearly all of which were in the cities of Montreal and within the Metropolitan Toronto area. This becomes a particular reflection of concerns when one adds that to the other events we all know are becoming more worrisome to visible minorities within our community.

It is not something in which we have had as much of an unfortunate experience as have many of the larger cities within the United States. There is not gunfire in the streets. The burning of buildings, whether they are abandoned or not, has not occurred as it has in some American communities when strife and strain, added to economic difficulties, have brought those kinds of attitudes forward.

Perhaps it is because we in Ontario, as we look back on the 200 years of our framework of society, have favoured order somewhat more than liberty. The favouring of that order, of working within a framework of some greater respect for one another and somewhat less tension, even though a few rights may well be given up in the meantime, is perhaps what distinguishes a city such as Toronto from the larger American cities.

That attitude, whether it be on the subways, in the parks or on the streets, has made Toronto a welcome tourist attraction for many visitors from the United States, in comparison with the larger American cities which perhaps offer greater individual liberty, which may make the use of immediate personal violence to settle presumed grievances, much more a pattern there than is fortunately evident in Ontario.

Certainly all of us as politicians, as parents and as people charged with responsibilities in our society have a fear for the wellbeing of our society. We realize, in looking at television reports, that the influence of the media and the attitudes of society are constantly impinged upon, particularly by the American experience.

It is perhaps only natural and it is often simply referred to as an effect that what we see on our television screens from Buffalo or New York will be what we will live through personally 10 years from now.

I do not think we necessarily have to accept that approach. We certainly have an obligation to deal with this theme of racial strain. Fortunately, we have had within our society an attitude which has made it somewhat easier to give and receive a response to leadership if the government is firm in its approach.

I have commented upon the increase of anti-Semitic events, particularly within Ontario and Quebec in the last several years. We have an obligation to suppress that kind of attitude as we do all forms of religious and racial intolerance. We must not remain silent because that evil of bigotry finds a very hospitable climate in a landscape of silence. The League for Human Rights of Canadian B'nai B'rith has been so alarmed by this unwelcome development that it undertook the first of an annual chronicle of anti-Semitism in Canada.

In 1982, as I have said, in Ontario we had the largest number of these incidents in Canada, a total of 34. I suppose people might say out of 8.5 million going on nine million people, 34 is not very many to be concerned about. But here is a quotation from this report:

"Since this is our initial survey, it should be emphasized that the list of incidents recorded is by no means exhaustive. Many incidents in which anti-Semitism is a factor go unreported. One reason is that Jewish institutions and Jewish communities around the country want to avoid publicity that might encourage initiative or repetitive behaviour patterns that would result in additional assaults. It is therefore likely that the actual number of anti-Semitic episodes was considerably higher . . . Human rights commissions and police estimated that for every incident reported, as many as four or five may have actually occurred."

11:20 a.m.

The report continues: "The war in Lebanon (last summer) has generated a barrage of anti-Zionist and anti-Semitic propaganda unprecedented in both its volume and intensity . . . not only on the political legitimacy of Israel, but on the moral and ethical image of Jews throughout the world.

"This campaign against the Jews has taken two contradictory forms: The first is a movement to proclaim the holocaust a 'hoax' . . . The second has taken the form of an analogy drawn

between the war in Lebanon and the holocaust . . .

"The campuses of Canadian universities have become a testing ground for this propaganda campaign. At the University of Ottawa there were attempts to deny the Jewish student organization official status on the campus on the basis that as a Jewish group they are Zionists . . . Jewish students have also been the targets of verbal and physical abuse . . . Although the situation at the University of Ottawa campus was the most severe, it was indicative of the general deterioration in the situation of Jewish university students across Canada."

There is a role for the machinery of justice in our province to respond to these foreboding developments. As was said in February this year by the Leader of the Opposition (Mr. Peterson), the traditional institutions of our society, included among which are the political leaders and the administration of justice, must respond to minorities in distress. When assaulted by prejudice of any kind, the intended victims must believe that the traditional institutions of our society will stand at their side. This belief must be widespread, it must be commonplace and it must be unshakeable.

There is a place, therefore, for this secretariat to assume a position publicly and to combat demonstratively this woeful bigotry. One of the key observations to arise from the comprehensive study conducted last year by the federal department of the Minister of State for Multiculturalism with respect to multicultural co-existence in Canada was the following:

"[Canada] has gained the reputation of being one of the world's worst offenders in distributing hate literature. Not only has such literature been circulated in Canada, but this country is one of the largest mailing centres of hate literature to the rest of the world."

Regrettably, the Canadian centres of distribution are in Ontario. The Attorney General is aware of this, and I suggest it is most likely, indeed it goes without question, that the policy secretary is equally aware. In Flesherton, Ontario, Mr. Ron Gostick, running an organization that ironically calls itself the Canadian League of Rights, disseminates hate literature country-wide. It was from him that the mayor of Eckville, Alberta, received his material. In Toronto, Ernst Zundel and his company, Samisdat Publishing Ltd., are the suppliers. Indeed, the West German government has described him as one of the 10 biggest purveyors of Nazi propaganda in the world.

In the past, the Attorney General has been reluctant, with some justification, to commence criminal proceedings against these persons. Convictions under the present wording of the Criminal Code are very difficult to achieve. There is also the risk of making martyrs of the person and the cause merely by virtue of the trial procedure, which may lead to underlying support in the absence of being able to obtain a conviction.

However, in the unsettling stirrings of anti-Semitism it may be time to reconsider this policy against persecution. Perhaps as an alternative the minister and the Attorney General would undertake to recommend to the federal Minister of Justice that the current drafting of the Criminal Code be amended to facilitate appropriate legal remedies.

Quite apart from actions at the federal level, there are still a host of provincially competent measures that this secretariat can initiate. For example, would the minister consider commissioning a report or white paper from either the ministry or the Ontario Law Reform Commission on the problems confronting a democratic society attempting to deal with the propagators of hate? Such was the worthwhile suggestion of the member for Riverdale (Mr. Renwick) in the estimates of the Attorney General last year.

Will the minister consider reforming or recommending reform of the laws of libel and slander to enable an identifiable group singled out for hatred and contempt to commence proceedings by way of a class action? Will, indeed, the minister confer with his colleague the Minister of Labour (Mr. Ramsay) to consider strengthening the race relations division of the Ontario Human Rights Commission and to consider further amendment of the code to establish a cause of action under it for a violation of this sort?

There is need, certainly, for a governmental public response to the problem of racial bigotry and intolerance. I think the secretariat has a role to play in this and a co-ordination and leadership theme from this secretariat would be welcomed by the members of this Legislature.

I began my remarks with a reference from T. S. Eliot and a further comment in that poem is as follows:

"Between the idea
And the reality
Between the motion
And the act
Falls the shadow."

That shadow certainly need not fall on the working of this secretariat or on this minister. The time is required for the act and for the idea that I have suggested today to become reality.

I put a case forward on behalf of freedom of information and, secondarily, on behalf of the reality of effectively dealing with the purveyors of hate propaganda. There are, of course, many worthy and worthwhile other ideas that have been referred to and there has been progress made with respect to dealing with a number of these other themes.

I stress, however, the essential results will lie in the response and in the act which we receive, and the leadership which this secretariat should give in the themes to which I have referred.

Mr. Renwick: Mr. Chairman, I appreciate the opportunity to comment in the estimates of the Provincial Secretary for Justice (Mr. Sterling), because it gives us an opportunity to discuss a number of matters which are not readily available for discussion in the estimates of the other Justice ministries.

I do not intend to comment in any great degree or elaborate on remarks that have been made by my colleague the member for Kitchener (Mr. Breithaupt) in the areas which he has covered. I subscribe to much of what he has said in relation to the topics he has dealt with.

I have not followed the whole story of freedom of information to the extent and degree my colleague has. I have perhaps become more concerned with the privacy protection aspect than with respect to the freedom of information.

I noticed, for example, that the Supreme Court in West Germany has now granted an injunction against the annual census being taken in that country under the authority of the government, the injunction being granted on an interim basis until questions can be decided as to whether or not there is an intrusion of privacy involved in the nature and extent of the questions which are asked.

It was interesting that a comment was made just recently that it may well be that one aspect of the threat to democratic freedom of Bill C-157, related to the new security force which we hope the government of Canada will reconsider, is the question of the availability of the kind of information which is collected in the course of the census-taking operations under the Statistics Act and that the protection provided by that statute will be meaningless with respect to the individual person's privacy.

I noted last year that the minister pointed out the steps which have been taken by this gov-

ernment to at least index all of the files with respect to which the matters of privacy related to an individual may be involved with the government. But there has been as yet no clear development of the kinds of protections which Mr. Justice Krever recommended in his report with respect to the confidentiality of medical information.

11:30 a.m.

One of my first and immediate comments to the provincial secretary is that between now and next year there should be a determined effort—I believe this is the appropriate minister for that purpose—to review Mr. Justice Krever's report and his recommendations on the whole question of protection of the confidentiality of medical information.

This question is of particular and growing importance in the province in all of its aspects, but particularly in reference to matters relating to occupational health and Workers' Compensation Board claims which relate very much to the availability of private medical information related to employees and the protections against disclosure, both with respect to the information which an employer may have and with respect to the information which the Workers' Compensation Board may have.

I need not say any more about that. If we do not have a public statement about that matter by this time next year, perhaps it will be an appropriate occasion to deal in more specific terms with that area of concern.

Confidentiality and privacy are matters that are going to be of greater and greater importance to all of us. Those aspects of my colleague's bill related to privacy on balance appear to me to be of greater importance than developing some channels of communication through which greater freedom of information might well be available to members of the public.

I believe we will find, as it often is with government enactments, that the extent and degree to which the freedom is achieved is sometimes in converse relationship to the intention of the Legislature and that all the freedom of information act may do will be to impose more and more onerous restrictions upon members of the civil service by providing a simple or single channel through which information may be properly and adequately released.

I share my colleague's concern, but I do not have the intense interest in the aspects of it related to freedom of information. I share the

deep concern he has on the privacy aspects of that matter.

I have a second item. I have referred briefly to Bill C-157 in that comment related to the whole question of privacy. I draw the attention of the provincial secretary to the comments I made in my opening statement in the estimates of the Ministry of the Solicitor General on the question of Bill C-157. It was on the first day of those estimates, which were published on May 25.

I want to raise it with the minister because there are aspects of it that relate to the Ministry of the Solicitor General, the Ministry of the Attorney General or the Ministry of Consumer and Commercial Relations. There are certainly aspects relating to the Ministry of Correctional Services.

The impingement of that bill is a matter of great concern. The Attorney General (Mr. McMurtry) has expressed himself on the issue publicly. He has not deigned, for reasons I do not understand, to make any statement in the House with respect to Bill C-157. But each member of the assembly has now received a letter from him, together with a copy of the communiqué of the Attorney General and the ministers of justice released from Charlottetown on May 26 or May 27 of this year, about the apprehensions, collectively, of the provincial Attorneys General and Ministers of Justice related to Bill C-157.

I think it requires policy leadership co-ordination of the way in which the cabinet committee, chaired by the provincial secretary, is responsible for the development and co-ordination of policy recommendations within the Justice policy field. I would like to have a very definitive statement on Bill C-157 made in the assembly as soon as it is possible for a statement to be put together.

Each time I read the bill, I find there are other aspects of that threat as yet undisclosed by analysis as we try to forecast what can take place under the wide powers given to the security service. Mr. Clayton Ruby went so far on the Canadian Broadcasting Corp. program *Metro Morning* as to say that if it was reasonably necessary to engage in physical, mental or psychological torture to obtain information, then the agents of the security service doing that would be fully protected.

Mr. Clayton Ruby is a respected member of the criminal bar, and I am sure other members of the criminal bar would not dissent from the view he has expressed about the ambit of the power. I think it is a matter about which those

charged with the administration of justice in Ontario simply must speak out forcefully, clearly and intelligently to the government of Canada.

It is not simply going to be a question of rhetoric, because rhetoric will not change the determination of that group of top civil servants in Ottawa and the ministers who represent the government of Canada when they decide to ride roughshod, which they consider to be their God-given right, over the rights of individuals.

I think it is extremely important that the government of Ontario express itself very clearly about Bill C-157. It transcends questions of unique distinctions between legislative powers of one level of government as distinct from those of the other level of government.

The provincial secretary some months ago was kind enough to say the concept set out in the tentative bill I introduced in the last session of parliament met with some approval on his part. That bill made moneys earned by accused criminals from the sale of their memoirs payable to the Criminal Injuries Compensation Board, which uses the funds received to satisfy judgments obtained by victims of crime.

There is no hope, of course, of its passing through the assembly as a private member's public bill, but I introduced it in the assembly about a week ago. I ask the Provincial Secretary for Justice if he will give some consideration to that bill, to study and examine it to see whether, with whatever modifications are necessary to balance the interests involved and having made certain that it does not encroach on freedom of expression and opinion and the right of freedom of publication, which I do not believe it does, it merits consideration and introduction by the government.

11:40 a.m.

When I first introduced the bill, I used the example in Ontario of Mr. Cecil Kirby, who has been granted immunity from prosecution by the Attorney General and has been a crown witness in a number of cases dealing with organized crime. It is not beyond the realm of possibility that Mr. Kirby, along with a ghost writer, might decide to write his account of organized crime.

It appeared to me that before funds went to Mr. Kirby from the sale of any such publication or any rights in connection with it, those funds should first be available, before being diverted to him, to persons who had suffered by his acts, which he has admitted in a number of cases. They should have some opportunity to receive compensation for the crimes committed.

Mr. Kirby has admitted to the bombing of a

store in which the inhabitant of the store was killed. There were survivors in the family, and that would seem to me to be an appropriate occasion on which moneys should be diverted to compensate them rather than be given directly to Mr. Kirby, should he decide on some occasion to make that kind of publication.

Another item I wish to ask the Provincial Secretary for Justice to consider is the question that has been raised in the assembly and is up front and centre in everybody's mind. That is the revisions of the Criminal Code related to the cluster of questions arising around the term "pornography."

In this government already there are four ministries involved: the Ministry of the Solicitor General, the Ministry of Consumer and Commercial Relations in regard to the Theatres Act, the Ministry of the Attorney General, and now the Deputy Premier (Mr. Welch) in his role as the Minister responsible for Women's Issues.

Personally, I do not see that there is an immense drafting problem involved. The problem is simply one of making distinctions, which up to now have not been made, with respect to the terms "obscenity," "pornography," "erotica" and "child pornography."

It is quite possible in the growing awareness of concerns with respect to violence, degradation and the subordination of one group of people to another, to devise in the English language terminology that will permit reasonable distinctions that do not encroach on freedom of expression and freedom of opinion and do not encroach on the purpose of the Criminal Code or on the purpose of amendments that undoubtedly will have to be introduced under the Theatres Act.

If there are so many ministers of the crown involved in one way or another in consideration of those issues, then I would ask you, sir, to provide some co-ordination to get some movement on those questions.

There is no indication from the Attorney General, the Solicitor General (Mr. G. W. Taylor), the Minister of Consumer and Commercial Relations (Mr. Drea) or the Deputy Premier in his capacity as Minister responsible for Women's Issues of anything other than a general concern about the problem, rather than getting down to the specifics of what recommendations would be made to the government at Ottawa.

Those recommendations will have a bearing upon and have to be consistent with whatever

distinctions you decide or the government decides are necessary under the Theatres Act and the question of the extension of the scope of the role under the Theatres Act of the preclassification or precensorship, or whatever the appropriate term is, of movies of all kinds in the province. That to me is a problem of significant proportions.

The federal Young Offenders Act has almost defeated me because I do not now know what is happening. I understand the statement you have made, and I hope you will seriously consider looking at the exchanges of correspondence and making available to my colleague, myself and other members of the committee the exchanges you have had with respect to the problems you referred to in your opening statement, related to the Young Offenders Act and the responses of the Solicitor General of Canada to the inquiries you have made.

I think we have to have an understanding of the problems because there is no sense of any co-ordinated response by the government to the Young Offenders Act. Indeed, it is my understanding—and I will never know, of course—that there are conflicting jurisdictional responses within the government itself which are now on the desk of the Premier (Mr. Davis).

I understand that the cabinet committee on social policy has made one series of recommendations with respect to the jurisdictional administration of the Young Offenders Act, that the cabinet committee on justice matters has made another and that the problem within the government itself has not been clarified as to the line ministry that is going to be responsible for the whole question of the young offenders.

I have had consultations with those who wrote the very fine booklet *Youth/Opportunity/Action*, which undoubtedly you have seen and which came out last year from the Central Toronto Youth Services. It tries to set out in some panoramic way the kinds of problems that have to be dealt with if the new philosophy and intentions of the Young Offenders Act are to be carried out in a wholesome and wholehearted way. It is an extremely informed document.

In discussing with the representatives of that organization where we now stand, we only have minor bits and pieces. One of the pieces was set out in the statement by the chief judge of the family court at the opening of the court this year. He indicated the steps that were being taken by the judges to prepare for the introduction of the Young Offenders Act when it comes into force.

These are comments I would like the provincial secretary, to the extent possible, to respond to. This is from the January 7, 1983, report of the opening of the courts by chief judge H.T.G. Andrews of the provincial court, family division.

"Having weathered new legislation in the Family Law Reform Act and more recently the Children's Law Reform Act, it appears that 1983 will hold the implementation of the new federal Young Offenders Act.

"Under the present Juvenile Delinquents Act, young people are charged with all offences against provincial, municipal and federal laws. Under the Young Offenders Act, they will only be charged with federal criminal offences. Consequently, the province must pass laws dealing with young persons who break municipal bylaws, highway traffic laws, liquor laws and the like." These, I think, are commonly known as status offences; in other words, offences which because of age are offences that for adults are not otherwise offences.

"It is a most difficult task establishing policies as to how these young offenders may best be dealt with; what court they should appear in; what range of penalty should be provided; what should be the power of arrest, detention and bail and other far-reaching questions of provincial concern. On April 1, 1985, the age limit for persons to be dealt with under the Young Offenders Act will jump from 16 to 18 years of age. The current case load of 32,000 per year will suddenly exceed 100,000 per year, an enormous impact of change in our justice delivery system. We have prayed for the wisdom of our law makers and hope that financial restraints will not require that they stray too far from the ideal system of law and administration."

11:50 a.m.

That is a pretty succinct statement by a judge, indicating quite clearly that there is a vast amount of work to be done, even in the laconic way in which he has stated it. Later on, he states:

"One of our Ontario judges heads the national organization responsible for training Canadian judges in the Young Offenders Act and several of us are acting as faculty for the purpose. Training in the Young Offenders Act of all Ontario judges of the family courts will commence with a week-long program the first week in February next"—which, of course, was last February. I have not heard what took place at that training session and what the further plans are with respect to the judges. Presumably they are making some effort related to the Young Offenders Act.

The Solicitor General last week had a very throw-away line in his opening statement which shed no light on the role being played with respect to the training of the police. When the Ontario Police Commission was before us in those estimates, the chairman of the commission, Mr. Shaun MacGrath, did comment about the steps being taken by the commission to make the police forces in Ontario aware to some extent and degree of the philosophy of the Young Offenders Act and what was required.

There has, however, been absolutely no statement from the Attorney General with respect to the provision of the kind of separate facilities the act looks forward to for the purpose of the trial of persons under the Young Offenders Act. It just is not suitable to say that on a certain day in a week, provincial court so-and-so will be available for young offenders. That is not what the concept of the philosophy of the act is.

Similarly, the whole question of the correctional institutions of the province and the way in which they are going to be organized to deal with young offenders, if they must be institutionalized at ages 16 and 17, is not a matter that appears to have any solid foundation in government policies with respect to what will take place.

There are questions that come to our minds when we think about it. Which is going to be the line ministry responsible for the implementation of the act? Are you responsible for it, or is your colleague the Minister of Community and Social Services going to have the major role with respect to the Young Offenders Act? If it is not you or him, who is going to be responsible in an overall way for co-ordinating the activities of this province to respond in a positive way to what most consider to be a fine new direction of philosophy with respect to the treatment of young offenders?

The second aspect that comes to our minds covers a number of points. What analysis has been done of the impact of the changes proposed by the act on the legal aid system, the use of the courts and the potential backlogs in those courts? One need not even speak about potential backlogs; there is the effect of the current backlogs on the use of the courts. What about the extra time required by judges, crown attorneys and other court officials? What additional personnel are going to be required to carry out that act?

I have raised the question of correctional facilities and police procedures. The question

of sentencing procedures and the results is implicit in the questions that have to be looked at. As to the cost to the government of the provision of the range of facilities required, you have raised in your opening statement the question of the cost and the extent to which the federal government will be sharing in it. We would like to share with you that information, if you will let us have it, in the exchange of correspondence.

What are the general guidelines and instructions and information that have been given to the police, the defence counsel, the prosecutors, the judges, the probation officers, the volunteers, the children's service workers, the correctional officers and the public, with respect to the act?

Then there is the other question Judge Andrews raised: What is going to be done to bring provincial statutes, municipal bylaws and other enactments into line with the Young Offenders Act?

That range of questions seems to me to be implicit in the booklet *Youth/Opportunity/Action*. The problems and their scope are certainly raised there, but we have not had from anybody in the government any clear sense that anything is happening, except a little bit in this ministry, a little bit in that ministry, a little bit in another ministry. We keep hearing about the internal jurisdictional conflict among the ministers within the government itself.

I do not know what more I can say, but I hope that if the provincial secretary does not have time today to respond at length, he will be good enough to respond to me and to my colleague in some depth about the co-ordinating role he is performing, if any, in the implementation of that statute.

I want to take the opportunity to deal briefly, at least I hope it will be briefly, with the problem that is now in people's minds because of Dr. Morgentaler's intention to open a clinic in Toronto. I want to try to let you know where I stand and where our party stands on this question so that there will be no misunderstanding of it and because of the problems it raises.

I wrote to the Minister of Health (Mr. Grossman) jointly with my colleague the member for Scarborough West (Mr. R. F. Johnston), and I wrote to the Attorney General and sent him a copy of the letter. I have not had a response from him, but I have had a response from the Minister of Health on the question.

I have also prepared, and will be quite happy

to share it with any member of the committee who wishes it, a research paper on the question of therapeutic abortions in Ontario. I think it is a very useful summary and outline of the problems as we understand them.

I am going to take up the time of the committee to read the letter and the position of the New Democratic Party on this question, and I again ask the provincial secretary to provide some kind of response to the question, because I find the response of the government generally to be inappropriate to the problem being raised.

I have to read these with great care because the Attorney General, unintentionally, did not understand what I was saying to him at one point. I am simply saying that the presence of Dr. Morgentaler at the opening of a clinic in Toronto focuses attention on the problem. It is not a question of whether I agree or disagree, but the problem he addresses in the public mind. Whether it is the right or wrong solution or whether what he is doing is appropriate is not the question. It does raise very serious questions.

12 noon

My colleague and I wrote to the Minister of Health as follows on February 28 of this year:

"Dear Mr. Grossman:

"As you will know, Canadian law recognizes the right of a woman to obtain an abortion subject to conditions in the Criminal Code. You will also know that we have raised questions with you and the Attorney General in committee and the Legislature concerning access to abortion and the law of Ontario. We regret that neither of you has answered those questions directly. We now ask you to do so.

"A free-standing abortion clinic is expected to open soon in Toronto. According to news reports, it is possible that the activities of the clinic may well be followed by charges under the Criminal Code. We want to tell you that legal conflicts could be avoided if you were living up to your responsibilities to ensure equal access to abortion in our province.

"Only 37 per cent of Ontario's 289 hospitals have therapeutic abortion committees and many of those that do are required to apply arbitrary quotas. Hospitals with committees are concentrated in large urban areas, meaning that about one third of Ontario's population lives in communities without hospitals performing therapeutic abortions. Since the decision of a committee is final with no appeal, women are often forced either to seek an abortion under unsafe conditions or to travel to another province or country.

"In short, the many barriers to the right of access caused by either your government's policies, studied inaction or indifference have forced many women to seek alternatives outside the health and hospital system that has failed them. Sadly, those failures of the system under your responsibility may also put women into conflict with the law.

"To overcome the accessibility problem, we propose that women's health centres be established immediately to provide a wide range of gynaecological services, including birth control counselling and abortion in the first trimester. These centres, with appropriate medical staff, would be licensed by your ministry and subject to the laws and regulations of the province. They should be operated by community boards and should be fully funded by the Ontario health insurance plan.

"Attached you will find our party's policy on this issue. We are writing to you because you are in a position to act directly and immediately on the concerns we and thousands of people in Ontario have raised. We look forward to your response."

So that the information in the record of Hansard will be complete on this and because it will show the problem as we see it, I would also like to read into the record the report of the joint caucus-party committee of the New Democratic Party on abortion.

"The task of arriving at a position on an issue as sensitive as abortion is an extremely difficult one. The views of people on the issue are deeply held and not easily reconcilable. That is as true within the New Democratic Party as it is in Canadian society as a whole.

"For some, only opposition to all abortions can be consistent with their religious beliefs. For others, the issue poses a difficult moral dilemma. They find themselves forced to struggle between two sets of views: those based on their religious and philosophical beliefs and those based on an individual's right to privacy. For still others, the issue is clear: they support a woman's right to choice. As a consequence, this statement reflects a majority view rather than a consensus.

"Because of the lack of consensus and because of the nature of the issue, the right of individual members of the party to dissent must be respected.

"We believe that access to abortion must be achieved within the context of law. We therefore cannot condone the establishment of illegal clinics. We also believe that the law should be

changed to protect privacy and public health and to ensure equal access.

"It is clear that the law in Ontario and in Canada does not deal at all adequately with the issue of abortion. The law itself is inequitable and its application is unequal. Even present Canadian law recognizes the right of a woman to obtain an abortion, subject to conditions contained in the Criminal Code and elaborated in court decisions. However, the ability of women in Ontario to exercise that right is limited by a number of factors.

"Opting out by gynaecologists has tended to ration access on the basis of ability to pay. The limited number of hospitals which have established therapeutic abortion committees and their uneven distribution means that many women have no access at all at a reasonable distance from their homes, and the limitations on the use of operating room facilities further reduce accessibility.

"What is a personal decision is clouded by legal restrictions and limitations on access. No one can resolve the moral question of when life begins, but even many people who do not personally believe in abortion respect a woman's right to make that decision with her doctor.

"Only 37 per cent of Ontario's hospitals have therapeutic abortion committees and many of those that do are required to apply arbitrary quotas. Hospitals with committees are concentrated in large urban areas. Since the decision of a committee is final with no appeal, women are often forced either to seek an abortion under unsafe conditions or to travel to another country or province.

"Even where committees exist there are economic barriers. In Toronto, for example, 64 per cent of the gynaecologists are currently opted out of OHIP. The average cost of an abortion is \$200 to \$300 above OHIP rates, payable in advance. This effectively restricts access to those who can afford to pay.

"The delays inherent in the process of application and review can place a woman in jeopardy since the procedure after the first trimester is both more difficult and more dangerous. These problems of access cannot be ignored. As a result, we propose:

"First, the sections of the Criminal Code dealing with abortion must be repealed, as outlined in the policies of the New Democratic Party in Ontario and at the federal level. The restrictions in those sections are outdated. Abortion should be dealt with in the legal framework of Ontario as a medical procedure.

"Second, the province must direct far more attention to the need for sex education. It is no longer good enough in Ontario to pretend that sexual activity does not exist, nor can the government ignore the fact that the education and health care systems do a poor job of preparing young people to deal with the responsibilities of sexual relationships.

"Third, funding must be increased for research and development into methods of contraception and to make contraceptive methods freely available to all. Abortion is not a form of birth control. It is in part a sign of the failure of birth control. Efforts to provide methods of contraception which are effective and safe for women and men must be stepped up.

"Fourth, women's health standards should be established to provide a wide range of gynaecological services, including birth control counselling and abortion in the first trimester. The centres could be affiliated with hospitals. They would be licensed by the Ministry of Health and subject to the laws and regulations of the province. They should be operated by community boards and should be fully funded by OHIP.

"Studies by Johns Hopkins University have shown that procedures of the type used by clinics in the first trimester are both safer and less costly than those used in hospitals. Women's health centres could provide a broad range of services to women in a setting which is sensitive to their needs, an atmosphere which is lacking in the present system.

"Those who make all abortions a crime or who would so manipulate the law as to make them virtually impossible in Ontario are making the fundamental mistake of confusing private morality and public law. There are a great many people who do not believe in abortion for themselves or their families, indeed, who are profoundly opposed to it, but who none the less recognize, when all is said and done, that there can be in a complex and pluralistic society such as ours, no absolute moral consensus on these issues."

Mr. Chairman, I have gone on at some length but I wanted you and my colleagues on the committee to fully understand the position of the New Democratic Party on the question, and to raise with you the very serious questions with respect to access.

12:10 p.m.

It is very clear from reading the code, reading the provisions of the Public Hospitals Act in Ontario, and reading the provisions of the

regulations in Ontario, that there is a responsibility on those charged with government to make certain there is reasonable access available within the province on a difficult, sensitive and very individual problem, which most members of this committee will not be faced with but which requires some kind of response by the government.

It is not sufficient simply to say it is a federal government matter. It is not a federal government matter. Whether we like it or whether we do not like it is not the point. The point is that even within the present strictures of the Criminal Code on the whole question, this province is not providing the kind of availability and access which in my judgement the issue requires.

I have the response of the Minister of Health. I can make that material available to you in connection with this particular problem.

I have gone on at far too great a length. I am deeply interested in statistical questions in the whole range of the administration of justice, and I know if it were not for the Provincial Secretary for Justice we would not be as far along the road as we are on the question of statistics. I again pay tribute to the former deputy minister, Donald Sinclair, who played such a leading role in getting the question of statistics in the justice field in all of its aspects into some kind of reasonably understandable form.

The question now, as we get the statistics into manageable form, basically boils down to the assessment of them for the purpose of making value judgements about what should be required in the justice system. I may say that the statements which the Provincial Secretary provided at the time of the Premiers' conference a year ago do not reflect the kind of attitude that I particularly would take. The question of whether we need more judges, more courts, more jails, more this, more that in the system, is not, in my view, the proper assessment.

Everyone now knows that whether we like it or not there is a relative stability in the amount of crime in the community. We also now know very clearly that judges, for example, because of attitudinal changes that are reflected finally through to the judicial system, are sentencing more and more people to prison terms. I find it extremely difficult to get any real sense in connection with that.

I noticed the Provincial Secretary raised his eyebrows when I suggested there is perhaps in some sense, within very reasonable limits, a stability in the amount of crime in society. I would refer him to an address made just recently

by the chief of police of Metropolitan Toronto where he indicated very clearly that the amount of crime in this society appeared to be within the kinds of limits, without being complacent about it, about which in a strange sense one can use the term "stability," that it does not seem to change a great deal.

Again, the Solicitor General of Canada, in whom I do not have necessarily the greatest of confidence, says there is a tremendous difference between the fact of crime in Canada and the perception of crime. He goes on to point out that these realities are often in conflict. He stated in the course of his remarks a few months ago: "According to an analysis of a recent national survey on the public perception of crime done by Professor Anthony Doob, director of the Centre of Criminology at the University of Toronto, the public's view of the extent of the crime problem suggests that most members of the public see serious crime as more of a problem than it appears to be."

Professor Doob summarized the overall findings of the survey as showing that Canadians vastly overestimate the proportion of crime which involves violence. They think we are closer in levels of violence to the United States than in fact we are; they see the number of murders as increasing in the past six years when in fact they have decreased, and they think that more people released from prison on parole are more likely to commit crimes of violence soon after release than in fact do.

You are aware of these kinds of comments as much as I am; I do not need to deliver any lecture to you about them. In my own particular perspective of this problem, you should take the statements you made in August last year about the needs of the justice system and how it is falling into disrepute in the minds of the public.

The way in which that statement was reported in the press and your suggestions in relation to dealing with that problem suggest to me the following. It seems to me, having got the justice statistics into some kind of intelligible form throughout the entire the justice system, that it would not be money poorly spent for you to retain the Centre of Criminology at the University of Toronto and a firm such as Clarkson, Gordon to start to think about the kinds of valuation judgements that can be made in relation to the statistical information.

Those judgements would be helpful before we launch into questions of expanding detention facilities, court facilities, appointing more judges, more police and spending more and

more money on the justice system. But I know the minister appreciates the comments I have made.

As I said at the beginning, this ministry allows an opportunity to deal with some matters we cannot deal with adequately elsewhere and I appreciate your patience in my comments about them.

Hon. Mr. Sterling: Mr. Chairman, first I would like to thank the two critics for putting the time and energy into preparing their remarks. They were far-ranging and dealt with a number of problems which do not have easy answers. Quite frankly, I appreciate hearing your views about what issues you deem as being foremost in the justice area, in that the Justice secretariat has two roles. One is of a reactive nature, in other words, reacting to policy suggestions of the various client ministries, as I would call them, which bring suggestions to the policy field. Then, it is my duty to try to analyse and improve those particular suggestions.

The other part of what I have tried to increase is the pro-active area of the secretariat, and that is to try to raise issues in advance of their becoming a problem. I have had some success in trying to take an issue and bring it to the fore prior to it becoming at a critical stage. Therefore, some of your comments on various problems are of interest to me.

12:20 p.m.

Both of the critics have mentioned a policy paper prepared by myself for the Premiers' conference in Sault Ste. Marie last August. As you know, that paper was first done in a confidential nature for the conference. It was meant to provoke discussion and, therefore, was not meant to be a quiet document. It was perhaps taken to the extreme levels of where I might go in taking a stand.

Second, I think it is quite demonstrable, by reading the document which I publicly released after that time, that the statements quoted by the Toronto Star were taken quite out of the context of what I was saying in the document.

Mr. Renwick: Actually, it was the Globe and Mail.

Hon. Mr. Sterling: I believe they were fairer.

Mr. Breithaupt: I am glad I asked the question.

Hon. Mr. Sterling: Each of the items you raise could probably take up all the time we have here, if we got into a deep discussion on all of them. Therefore, I will try to go over them with some fairly rapid answers and then invite all members of the committee to ask questions on

those areas if you want to hit back at them or to clarify what I said. Or I might want to ask you questions of clarification as well.

Mr. Breithaupt made some remarks about the structure of the secretariat. I can only indicate from my experience that I believe it has a very valuable role and if a minister has that ministry alone rather than carrying it as a dual ministry, as has been the case over a number of years, it can be a more valuable asset than if he has to split his duties between a policy secretariat and one which is involved in program delivery.

I am seeing at this time some of the fruits of some of the initiatives I took earlier. I would suspect that would multiply to some degree in the coming year.

As Mr. Breithaupt is no doubt aware, the Premier (Mr. Davis) has a task force on the problem of drinking and driving at the request of a voluntary group entitled People to Reduce Impaired Driving Everywhere. I am a member of that PRIDE task force. The very questions which he raises are being considered by that committee.

In answer to his question, I believe the Premier's task force is a signal of agreement by this government that we need to address the issue and to do some additional, positive things in looking at ways to do so. The problem of drinking and driving is not in any way peculiar to our jurisdiction and we have the experience of a number of things like more onerous penalties being imposed in other jurisdictions with some questionable long-term effects. Because of these facts, I think a number of suggestions have to be acted upon really to grapple with the problem. It is my hope that when the Premier's task force reports, and I hope that report is not too long in the making, it will address a number of the concerns you have already mentioned, Mr. Breithaupt.

However, I agree in particular with your analysis of the media coverage of the problem. I really do wish the media would pay more attention to reporting the tragedies that are happening from day to day on our highways as a result of people drinking and driving. I hope the report will pay some attention to that particular aspect.

Mr. Breithaupt: When do you expect that report might be available for us? Are we looking at something in the matter of months, or how do you see a timetable if it is practical to consider that?

Hon. Mr. Sterling: I would expect we would

perhaps have something within a period of months.

Mr. Breithaupt: We are looking then to the fall session to have at least something before us that will forward further discussion or considerations as to policy.

Hon. Mr. Sterling: It would be up to the Premier to make that decision. I think that would be a reasonable time frame to look at.

Mr. Renwick: Just on that drinking and driving question: I will never quite understand how it comes about that the Court of Appeal in Ontario is now setting much higher periods of jail sentences with respect to drinking and driving offences. The process of osmosis by which something called public opinion gets through to the Court of Appeal, and it starts to lay down very different standards than were—

Mr. Breithaupt: And set a tone.

Mr. Renwick: It is really quite amazing. I suppose all of us 10 years ago could take any year and pick up cases where the identical kinds of offences took place where there was no jail sentence or a very minimum one, and now we find the Court of Appeal setting a new standard with respect to the sentences imposed in impaired driving cases, particularly where there has been a fatality.

Hon. Mr. Sterling: As you know, part of the sentencing procedure by any court has to reflect some community standard in terms of what they are doing, along with consistency. I believe it is reflected as a more serious problem today than it was 10 years ago, or it is perceived by the public to be more of a problem. Perhaps they are just reflecting the community attitude.

Mr. Kolyn: Is it not also true that we have had extreme cases of flagrant abuses by people who were under suspension from driving and things like that? Society as a whole wants or needs more adequate protection.

Mr. Breithaupt: There is a curious thing there; it almost seems that both courts and governments, naturally enough whatever the political stripe of the government, are to be seen as responding once public opinion groups mobilize. We have had groups particularly outraged with respect to the driving matters and this has led now to a higher profile, just as we had a group organized in London dealing with concerns about sexual and other abuse of children. The interest of that group has continued with an ongoing concern, spread by petition and by contact of federal and provincial members, to

talk about the law as it relates to dealing with and sentencing in the various child abuse situations.

There has been a response. Unfortunately, these things are always somewhat in arrears and do not deal with the individual case which is probably the highlight. We have seen a much higher interest in compensation for accused persons who have been put to great expense, which was unfortunately highlighted not only by the recent investigation in the Susan Nelles matter but also the matter of compensation has arisen concerning the Donald Marshall case in Nova Scotia.

These things, in arrears, stimulate us all; the response, not only in the Court of Appeal but from governments, generally has lurched along to meet that.

12:30 p.m.

Hon. Mr. Sterling: May I take that point and lead to the next point you were talking about, my remarks to the Sault Ste. Marie conference, and in some ways tie in with the matter raised by Mr. Renwick dealing with statistics and with how we address the problem faced by the justice system. I have stated in some of my speeches that I am not satisfied, and I do not think the justice system is satisfied, with the standard approaches we have taken in the past to meet the existing problems.

What we are experiencing, and you have just alluded to it, are new pressures on the system. We are talking about matters which you raised about Susan Nelles and what that case has done to dealing with a victim of the system. We are talking about situations which were raised by the Nova Scotia case. We are also talking about greater demands in the area of victim compensation, victim services, witness services. In the wife battering report we are talking about a very significant service for people who have been abused in that kind of crime.

The statistics do show a levelling off. I do not disagree with Mr. Renwick's analysis of the statistics. Fortunately in this province we are not facing an up trend in our crime rates, particularly in the violent crime area, but along with these new pressures that we have we are also seeing changes in attitudes of the judiciary towards different kinds of crime.

What we are experiencing is not only more people being sent to jail, but we are experiencing that they are being sentenced to jail for a longer period of time. In response to that, the justice system has already moved, through our new programs like the fine option program

which is being tried out in Hamilton and St. Catharines, to get away from incarceration as much as we possibly can. I do not think anyone would dispute that the Ministry of Correctional Services has been very much a leader in community service orders.

I am currently negotiating with the Ontario Native Council on Justice, which reports to me, to try to find a fine option program in the north designed by the native council themselves in conjunction with the various treaties that they are operating with.

We are really trying to address the existing problem with new approaches. It is not easy. In particular, when Mr. Breithaupt mentions the constraints on it, I want to indicate that if you look at the Justice policy field overall in terms of our budget increase in the past year and for the coming year, we are going up at a greater rate than the social development area. We are about matching the social area in increases in budget.

We would like to look to other places and not have to build any new institutions, but if somebody is delivered at our door we have to put that person up and keep that person incarcerated.

Mr. Breithaupt: You have to make sure there is room at the inn.

Hon. Mr. Sterling: That is correct. The other thing we are finding is that there seems to be a tendency for judges to take some terms that would perhaps have gone for longer than two years and knock that person down below two years, because the facilities we run are seen by the judiciary as having some advantage over federal penitentiaries. We are experiencing, we suspect, a little bit of that. Although it is not a universal problem across Ontario, our statistics do show some problems in our detention facilities, particularly in the more densely populated areas. We have to meet those responses. I do want to indicate that we are trying in every way to respond in different and innovative ways.

Mr. Renwick: Just before you leave that, this is not meant critically, I am not casting aspersions on anybody, but I cannot conceive that within the Justice portfolios, apart from the very raw statistics that there are more people and therefore we have to do something about it, there is any solid judgemental view that would support the decision to add detention places for another 500 in Metropolitan Toronto at a cost of \$64 million.

That may be the answer, it may be necessary, but I have seen absolutely nothing that indicates to me there is the kind of study which has been

made to say: "Is that our answer? Does this mean we are always going to have to build on?" I use that only as one very specific example because it is in the works. The decision has been made, the minister has said \$64 million and there are 500 people. It is not the minister's fault. The minister will tell you he is the innkeeper. He has to take anybody who comes to his door. He has to put them up and give them room and board. But it reflects back into the justice system.

Mr. Breithaupt: We know it will be filled within a year.

Mr. Renwick: Yes, and somebody will say, "Let us build another jail."

It seems to me we are far past that kind of simplistic approach to this serious problem. It seems to me you could almost take that as a case study and say, "What are all the judgemental factors which say that in Metropolitan Toronto we think we are finding some kind of solution to the problem by adding another 500 detention places at a cost of \$64 million?" There are many other examples, but that one happens to be the centre of my concern.

Hon. Mr. Sterling: I do not know the answer to that. I do not know that there are any answers to certain problems we have in terms of change. We would like to think we could do it with a number of other options that are already in place across Metropolitan Toronto to deal with a number of things.

I am not really in a position to comment. The Minister of Correctional Services (Mr. Leluk) would be in position to outline all the halfway houses, all the community service order programs that are going on in these communities. His statistics, accounts and projections have probably been the most accurate of any ministry in the Justice field. That may be for obvious reasons; he is in control of the individuals involved. Five years ago he predicted what his situation was going to be today. We have to go on the projections of the Minister of Correctional Services. We have the same people and the same tools, so even with a levelling off of the crime rate what conclusions are they going to come to for the situation five years down the road? Although the rate is perhaps levelling off generally, in places like Metro Toronto I understand it is still growing. The area is still growing in population size, so even though we may still have the same percentage or the same number

of crimes per 100,000 people, you still increase the number of—

Mr. Breithaupt: The total number of crimes.

Hon. Mr. Sterling: The total becomes greater.

12:40 p.m.

Mr. Renwick: I do not think one can just use the numbers. It seems to me it is a perfect example of a situation where the Justice people should put out statements saying, "We think we have to do this for the following reasons, but we have very serious reservations that this is the way it should be done and we want some sort of informed opinion focused on that one question because it raises all of the questions of who is in the jails at the present time, what is causing the overcrowding, to what extent does the backlog in the courts, for example, lead to this?" We can all pull out extreme cases; I just do not know.

I put an inquiry on the order paper just the other day as to why Mr. So-and-so has been in Metropolitan Toronto East Detention Centre for over two years. It will be two years this month. Why did it take so long for him to be dealt with—and he has not been dealt with completely as yet? I will be interested in the information. Everyone can pick out one case or something like that, that is not the problem.

Mr. Breithaupt: The Charter of Rights now comes into it too.

Mr. Renwick: Yes. When I went through the Don Jail, if I could use a figurative expression there did not appear to me to be many people who live north of Bloor and Danforth in there. I could use that figurative way of expressing my concern about it. They were awaiting trial. That kind of question has to be looked into.

Mr. Kolyn: Mr. Chairman, just to follow up on what Mr. Renwick was saying, we are talking about the economically disadvantaged, and we know the downturn in the economy in the last number of years has increased crime. We also know that if the economy happens to turn up, possibly the crime rates go down. That seems to be the trend. We have been in economic difficulty in the last number of years. Hopefully, if the economy picks up we may not need all of those extra spaces, the extra jails. How can we actually know what we need five years from now?

Mr. Breithaupt: There have to be parameters in which good or bad times are balanced.

Hon. Mr. Sterling: Mr. Kolyn, in fact there is some indication that the opposite is true. The statistics might show that during the economic

downturn crime also decreases. Some property crime went up and some other crimes fell off, and nobody seems to be able to put a finger on exactly why.

If you look in the first part of 1982—I have not seen any of the figures or the numbers for the last part of 1982—some rates have actually decreased. It may be just as simple as there are more people at home who are not working, there are more people in the neighbourhood, there are more people talking to each other; I do not know exactly what. Maybe some of the crime prevention programs a lot of voluntary organizations have undertaken over the past number of years have finally come to some fruitful end.

As I said, five years ago, in spite of all of the economic factors that have been involved, the Ministry of Correctional Services properly predicted the load for today. We have to look very seriously at what they are talking about for five years from now, regardless of the economic factors.

I understand Mr. Renwick's question, though, in terms of the overall look. I just do not know how we limit any kind of study looking into statistics and trying to draw conclusions from them when you are taking on such a tremendously large project. That is what I think you are alluding to.

Mr. Renwick: I must say, simply because Mr. Breithaupt and I both have had experience with Clarkson Gordon on the inquiries into the insurance field and so on, I think a question like that, posed to, say, the Centre of Criminology and Clarkson Gordon on a joint project, asking them to discuss it and discuss the parameters of the study—what you are trying to find out in a contained area—might provide some useful insights into problems elsewhere.

Maybe they would start to look at the population, where they came from, why they are there, how long they have been there and so on; and maybe in a very contained study they will be able to throw some light on some things. I am not underestimating; this is a very difficult question. It is the very difficulty of the question which makes the statistics in that kind of study so very important.

Otherwise, you know as well as I do there are just more people in jail. I do not have the current statistics or know if I can lay hands on them at the moment, but they are quite fascinating. Here we are talking about the judges increasing the sentences and the number of people in jail; yet 1980-81 over 1979-80—I do

not have the later figures—showed a decrease in the number of, what do you call them, community resource centres; an actual decrease in the number of available places, whereas many of us thought this was supposed to be the new way of dealing with the problem.

Hon. Mr. Sterling: I cannot comment on that.

Mr. Renwick: It is that kind of information that seems to get lost somewhere in the shuffle. I cite the Workers' Compensation Board giving statistics to us last night showing the number of industrial deaths in the last four years and ending up saying, because 1982 showed a very significant drop, that automatically the answer to that is the decrease in the level of economic activity. That is sort of an off-the-cuff judgement. One would actually want to analyse and study to see whether or not there may have been some minor dent in the question of safety in the work place. Just to say that economic activity is down therefore naturally there are not more people killed in industrial accidents, is superficial and maybe inaccurate.

Mr. Breithaupt: It ain't necessarily so.

Hon. Mr. Sterling: Could I deal with the privacy and access to information matters?

Mr. Breithaupt: I wish you would.

Hon. Mr. Sterling: Could I deal with the remarks of Mr. Breithaupt and Mr. Renwick? As you know, my answers to your questions in the Legislature indicate that I am still dealing with the matter with various ministers. It is difficult, because of my constraints in terms of negotiations and since the matter is with the cabinet, to make a great deal of comment on it.

I think it will be interesting, however—as you know the federal legislation is going to kick into effect on July 1—to see exactly how that piece of legislation works out.

Just by way of information, I have talked to some people, as you can imagine, in the not too far distant past, about the implementation of their legislation. They have indicated to me that a tremendous bureaucracy has already built up surrounding the access-to-information law which they have put in place. Some of the concerns Mr. Renwick has immediately pop to mind in terms of how much is one really increasing the actual flow of information to the opposition, to journalists and to the people who want it. There are some mixed blessings. I personally believe there should be access law or access policy clearly defined so any government that is in place can be called to account for not producing

information when asked for it. That should be the case.

12:50 p.m.

It would be interesting to see whether more or less information emanates out of the legislation. The other problem with information is the timing. This is one thing I cannot show you in my legislation, but I have always been concerned about the timing from the initial request to when the process actually ends. It would also be interesting to see, when the first refusal comes, the time between when the original request is made and when the court makes the final decision as to whether or not the information is available. If enough of a time span goes between them, the information becomes useless anyway.

The area of privacy and confidentiality has been a concern of mine and I have been looking into ways of developing privacy law, not only for the public sector but for the private sector as well, and this includes Krever. There has been, as you know, some English law developed in this area which has created a great many problems. Quite frankly, it comes down to no one ever having described what is private information about you and me and what is public information. I do not know whether that is ever going to be defined. I do not know whether it goes beyond one's name, age or birthday. No one has ever sat down and calculated that. It is extremely hard in this area to stay ahead of technology regardless of what law one designs.

We have one of the foremost experts in the privacy area, Dr. David Flaherty in London, who designed some of the British law in this area, but it seems his efforts are running into problems there because of the very things that are set up.

We have never thought to sit down as a society and figure out how much is public and how much is not public, but we are currently negotiating with the federal government in terms of its access-to-information law and dealing with the exchange of law enforcement information. We have a meeting with them later this month to try to get some agreement on how this is going to be dealt with. That matter has not yet been resolved, but it is going to be extremely important for the enforcement of law in our province.

I cannot agree more with Mr. Renwick that the privacy and confidentiality aspect is going to be far more important in the long run than the access part.

Mr. Renwick: The other part of the access question is that of course—the name slips my mind—the member for Lake Nipigon (Mr. Stokes) had someone in Natural Resources provide him with some information which led to the civil servant being suspended and then reinstated; and that situation is engaged in some kind of judicial review now.

It seems to me the moment you start to ask for information, you establish channels that are appropriate and every other civil servant is under an immense restriction. It becomes very formalized; rather than relying on judgemental sense by a particular civil servant as to whether he can provide the information within broad limits of discretion and judgement without somehow or other giving away something called state secrets. That poses a very real problem.

I can just see you developing channels and by the time you get the information it is of no use. At the federal government level, where there are questions such as those related to national security and defence, I can see maybe it has to be. I know I am somewhat at odds with my colleague the member for Kitchener, and I am certainly somewhat at odds in my perception of the problem with my colleague Donald MacDonald, who is very active in the whole field of freedom of information.

I guess it is the same in your caucus as in ours. Our research departments are constantly in touch with government ministries about this, that or the other information, one way or another. A lot of it is just straight forthcoming; or I may call to ask for some information about something or other and rely on the judgement of the person. We do not always have to rely on brown paper envelopes.

Hon. Mr. Sterling: The problem with the issue is the perception of what an access to information or a freedom of information piece of legislation does. There are other terms used by other jurisdictions relating to this kind of law. As I understand it, in the Scandinavian countries they do not call it a freedom of information law, which was an American name; they call it a secrecy law, because they all start with the concept of what is there and then they start putting the restrictions down.

I do not know which way you are better off in terms of the actual flow of information. It forces a government to face something in a real policy sense and say, "This is what is going to be there or this is what is not going to be there." This also relates to another issue which I feel very strongly about, and that is the ministerial respon-

sibility aspect of it. The parliamentary system should not be pushed off to the side for a judicial kind of situation in such terms that the government should be criticized for not producing information. It should not be a piece of legislation that restricts and then a judge says the restriction was valid. I do not buy that even in today's situation.

That stretches to the security forces question, which is the same kind of ministerial responsibility problem that Bill 157 brings into focus. One of the major problems I see with that bill is the problem that the buck does not stop anywhere; there is always a problem in terms of a minister and where he is responsible to the justice system. I think that bill, in addition to what everybody else has said about it, attacks very strongly our parliamentary system in not having a group of elected people ultimately responsible for what happens. That is one of the greatest dangers in that piece of legislation.

As I indicated, there will be a meeting of provincial and federal ministers on July 11 and 12, and I expect that topic will be on the agenda. I will also convey to my colleagues in the cabinet committee on justice your desire to have a government statement on our position on that bill.

1 p.m.

Mr. Chairman: Mr. Gillies, did you have a question on this point?

Hon. Mr. Sterling: I led from one to another—

Mr. Gillies: I have a number of questions, Mr. Chairman, but if the minister is going to continue with his reply—or would you like to entertain questions now?

Mr. Chairman: Only if you have a brief question on this point. Otherwise, I suggest we allow the minister to proceed.

Mr. Gillies: By way of a brief comment then, and I know there is not unanimity among my colleagues on this matter, I want to say that I hope the provincial secretary will add his voice to that of the Attorney General (Mr. McMurtry) in terms of Bill C-157.

I am very pleased that the Attorney General has taken the lead among the provincial attorneys general in this matter. The legislation as it now sits is dangerous. I feel that it infringes on the civil liberties of Canadian citizens.

The minister, if he has not put the brakes on, at least has indicated that perhaps the bill that Parliament has before it now will not be the one that is eventually pushed through by the government of Canada.

In formulating the province's position on this bill, I hope you will be very aware of the arguments the Attorney General has made and that as a province we maintain the position he has laid out among his colleagues, that to be acceptable to the government of this province it would require substantial revision.

Mr. Kolyn: Mr. Chairman, just to add to that: in fairness, I think Mr. Kaplan has agreed to send it to committee to look into the broader aspects of what the Attorneys General are concerned about.

Hon. Mr. Sterling: Yes, but only part of the story has been told in terms of the concerns that are associated with that bill. The Attorney General has made some statements about it. I have not made any statements publicly but I have other concerns. I just mentioned one in terms of what I feel about ministerial responsibility. I do not know how the other ministers in the Justice policy field will feel about that.

I also have some concerns about separating it from the Royal Canadian Mounted Police. I do not know whether the McDonald Commission adequately showed that this was the best step, because in my view one of the reasons we have had as few problems in this area in terms of bad agents, double agents or whatever, is that the former way of agents getting into that part of the RCMP was that they had to be members of the RCMP for a long time. Therefore, whatever those agents were doing, they were very trustworthy. It is a very delicate area when you are dealing in this area of law.

I would want to discuss this further with my colleagues, but I do not know whether the setting up of a whole new security force is merited. I just do not even know whether that is on the table, and that is certainly not going to be decided by the committee. I believe Mr. Renwick's suggestion is a good one in terms of it going to our cabinet committee and trying to formulate a position on all these situations.

I do not condone in any way, shape or form any police force doing anything that is unlawful, they have to be brought before the full force of the law; but in that situation, I do not know whether Mr. Kaplan drew the right conclusions from the results of the McDonald inquiry.

Mr. Kolyn: If you are talking about ministerial responsibility and if we are modelled after the British Parliament, how do they handle M15 and M16 in Britain? We are talking about a security force for the good of Canada.

Hon. Mr. Sterling: They have a system which the federal government perhaps should look at seriously, and that is a separation of the Attorney General from the general political structure. He is responsible primarily to the Parliament rather than to cabinet. He is not a member of cabinet; he is responsible to Parliament. To me, that represents another kind of solution that I would personally favour rather than not having the buck stop anywhere along the process.

Mr. Gillies: I could not agree more with your previous comments; when I look at the McDonald inquiry, how Mr. Kaplan could have arrived at this model in view of what McDonald turned up is incredible to me.

Here we have a commission struck by the Parliament of Canada to investigate alleged wrongdoings by a law enforcement agency. Then, partly as a result of that, it arrives with legislation, if the proposed law enforcement agency is set up, that removes it one step further from the scrutiny of Parliament. There is a quantum leap in logic that defeats me entirely.

I could not agree more with your comments that whatever we do by way of security in this country, not only for Canadian citizens but also vis-à-vis other states, has to be subject to the scrutiny of the people, and the people's voice is Parliament. I hope that is your position.

Mr. Renwick: Whether I agree with the Attorney General and what he did in connection with the Royal Canadian Mounted Police in Ontario is beside the point, but in cases I have referred to when we were discussing Bill 2, the emergency plans bill, at least with a police constable and the long tradition of the office, the nature and limitations of that office are well known, as is what a police officer can or cannot do and what he can plead in justification of his obligation as a police officer. He stands on his own feet. He is not a military officer in the sense that he can plead superior orders. He stands on his own feet. Properly trained, he knows the ambit of his authority.

That was the case with the RCMP. The question of whether or not they should be charged was a matter of prosecutorial discretion for the Attorney General, and he stayed the prosecutions in Ontario. Those are different questions. The actual role of the police is understood.

You now create a civilian body with absolutely no tradition of any kind and to say to them: "Notwithstanding any law, you can go about your business; so long as it is reasonable and reasonably necessary, you are going to be

fully protected." It seems Mr. Kaplan has been reading too many spy books.

If they had kept them as police constables, then we would have a very real problem. There is the inherent contradiction which may never be able to be solved; that is, to what extent is a police officer authorized, because of national security, in breaking the law and what is the extent and degree of the protection. It is up to the courts and so on to deal with those questions. I guess we could talk forever about the evils of that bill.

Hon. Mr. Sterling: We could talk forever on a lot of these items. It is an important discussion, and I am quite enjoying it. A lot of my energy and time is occupied in thinking about these kinds of things.

1:10 p.m.

Frankly, I guess the area Mr. Breithaupt brought up about the growth of bigotry and prejudice caught me a little bit off guard in terms of not expecting that coming out at these estimates.

One of the roles I have seen that the secretariat fulfils, and it has a very strong importance in the secretariat, is in the educational area. One of the things we have been able to achieve has been our attempt through various means to change attitudes in society towards different issues; for instance, in the sexual abuse area. We are, and are going to be, involved in these issues; we want to address the problems. We are no longer willing to allow to continue things some people would have maybe condoned in the past. We are standing and saying, "This is wrong. We are going to do something about it."

Through other kinds of issues we hope we can reiterate that message, but you know attitudinal problems are the hardest to address because they relate down to the educational level and whatever.

You may be interested to know that last month I met with the five chief curriculum people in our formal education system. They are preparing for me at this point in time a flow chart of all the areas in terms of values, law, etc. involved in the educational system, the areas that are changing at this time, the curriculum development that is going on, what is obligatory and what is not obligatory.

Perhaps at that point in time I will ask my Justice ministers to have some input into the process, which tends to be hived off into the Ministry of Education rather than coming from the people who are involved in the other end of

the justice system. Maybe we could bring in people such as the Minister of Labour (Mr. Ramsay), who is very much involved in this area, and let him have some input into the educational system as well, because I consider the human rights issue as a justice issue.

With regard to problems dealing with libel and slander, I have to take that under advisement. I will convey your thoughts to the Attorney General, who has the responsibility for this area.

I would like to mention Mr. Renwick's comments about the passage of his bill, to which I have already indicated I find a lot of attraction. I have done some work in the past year on that matter, but quite frankly I have not been able to come up with a workable piece of legislation that actually addresses the problem in any real way.

It is a difficult one to put into place at the provincial level because you are dealing with cross-border problems and all the rest of it. I am not trying to shove it off to the federal scene, but perhaps it should be included with your next item about pornography and what is or is not obscene within the definition included in the Criminal Code.

The situation is that I have just not been able to come up with a practical or good model to put it in place in law. I agree with the idea, but I do not know how to do it, nor can anybody advise me.

Mr. Renwick: I have only one very simple request. As you know, my bill is modelled on the New York bill, and I made a statement at the time in connection with it which reflects what I want, "I hope it will stimulate consideration by the Attorney General and others in Ontario, by those in other provincial jurisdictions, and by the federal government so an adequate and uniform law can be developed relating to the principle embodied in this bill; namely, the criminal should not benefit from his crime," and so on.

All I ask is whether you could have it prepared as a draft bill and eliminate my name from it; I do not have any pride in that part or that kind of thing. Say this is a problem in this jurisdiction, circulate it to colleagues in the other provinces and ask them whether they have any suggestions about it. I personally think it lends itself either to uniform provincial legislation across the country, which is always difficult to achieve, or to the federal government enacting it in some way.

All I am asking is that we press on. Given the

fact it is working in the state of New York, which happens also to have jurisdiction in criminal law, it seems to me it is not beyond our wit to pursue it. I would feel very upset if Mr. Kirby or Mr. Olson were to profit from this kind of writing at the expense—well, you know the content of my bill. It is only a delay. It does not mean he does not necessarily get the money. It just means it is diverted if there are victims. I would like to see it moved along a bit.

Hon. Mr. Sterling: In some ways it is tied to the pornography issue which you mentioned, because one is dealing with freedom of expression and the right to speak. That matter is under active consideration by the Attorney General at my request, as it was raised in our policy field some four or five months ago. I hope there will be some suggestions as to a government position in the not-too-distant future on that.

I cannot make any promises as to when the Attorney General might produce his suggestions on the obscenity provisions, but it was a matter of discussion at the cabinet committee on justice at the same time as the matter you are raising was brought on again by myself to bring the issue to the fore.

For the sake of the members of the committee who have not been involved in it, I think the Young Offenders Act will be a very important issue when it comes into effect.

As you know, we were somewhat startled in February 1982 when the age was raised by the federal Solicitor General from 15 to 17. That in effect tripled the problem with the act—if you want to call it a problem—or the prospect of early implementation of the act, because for every person involved in the justice system between the ages of 12 to 15, we have two 16- and 17-year olds.

It also changed the kind of offender we were dealing with. We were dealing with offenders who had in some ways been involved in much more serious and more violent crimes—

Mr. Breithaupt: Younger adults rather than older children.

Hon. Mr. Sterling: That is right, and there are very different physical abilities in terms of constraining their activity or controlling them in any setting.

Mr. Renwick: If one looks at it in a different way, though, the way in which it is being expressed is that somehow or other there is just a horrendous problem.

Hon. Mr. Sterling: No. I qualified that. I am

saying if one looks at it as a problem as far as implementing it—

1:20 p.m.

Mr. Breithaupt: Of administration.

Hon. Mr. Sterling: Yes; all of a sudden—one negotiates with the federal government for 10 years, and this negotiation has been going on for a long period of time. You get to February 1982, in fact I believe the bill was in the Commons at the time, and all of a sudden Mr. Kaplan walks in and makes an amendment in committee changing the age uniformly from 16 up to 18; without any prior notice to us. I have to admit we were caught off guard in terms of how we were going to deal with it.

Up to that time, during all of the negotiations, we had an interministerial committee. It still sits and is still involved, but the problems the interministerial committee faced after the change were significantly different and made it a very different kind of a situation.

Mr. Renwick: Is Correctional Services going to deal with it or Community and Social Services?

Hon. Mr. Sterling: That issue has not been resolved, but it will be resolved very shortly.

Mr. Renwick: That is the one that is sitting on the Premier's desk, is it?

Hon. Mr. Sterling: I did not say that.

Mr. Breithaupt: That desk must have an awful lot on it these last few days.

Mr. Renwick: That booklet, Youth/Opportunity/Action, is absolutely fascinating about the immense strides that are being made in Ontario to deinstitutionalize kids between seven and 12. When you compare the number of kids who are institutionalized now with the number 10 years ago in that age group, it shows there must be vast areas between 12 and 15 for deinstitutionalizing the system that would relieve part of the impact, if it has to be relieved, of the 16 and 17-year-olds up the road. Those figures are a tremendous tribute to the attitudinal change dealing with statistics. Just to see the difference as stated in that booklet is absolutely amazing, the number of committals to training schools, etc.

Hon. Mr. Sterling: The Ministry of Community and Social Services, as I understand it, and you will have to ask the minister for proof positive of this, has only more recently got into community alternatives in the age group from 12 to 15. Sixteen and 17-year-olds have been in the adult system and are still in the adult system, which has dealt with community alternatives for

some period of time, but twice as many 16 and 17-year-olds are in the end system now as there are 12 to 15-year-olds.

Mr. Gillies: Mr. Chairman, I am wondering, given the limited time remaining, if you will be allocating segments somehow. I think there are a number of us who have questions.

Mr. Renwick: I am sorry.

Mr. Gillies: I am not suggesting—

Mr. Chairman: The minister still has to respond to a couple of points.

Hon. Mr. Sterling: This is the last one Mr. Renwick has raised here other than access to abortion clinics. Quite frankly, I would rather leave that one for the Minister of Health (Mr. Grossman) to deal with, and the Attorney General.

Mr. Renwick: I just wanted you to know I would appreciate it if at some point you would look at what we have had to say on it, because I think it is a serious problem.

Hon. Mr. Sterling: In terms of trying to answer some of your questions on the Young Offenders Act, the first significant date is October 1, 1983. There is some indication that date may still be flexible. We think it would be a mistake to make October 1, 1983, the date on which the first part of it is to kick into effect—that is just dealing with the 12 to 15-year-olds—mainly because we have not settled our cost-sharing with the federal government. They have been quite slow in getting to us on it.

If we can reach a solution very soon, we would prefer to look at April 1, 1984, for the first part. April 1, 1985, is the date fixed in legislation. It is not a proclaiming date and I would require a legislative change.

I do not know whether we can meet the April 1, 1985, date. That is part of what we are discussing with the federal government right now. What is the situation? That is one of the questions you were asking: what is their interpretation of separate detention facilities? In some ways that determines what we can do within a period of time and the money we have for building these institutions and manning them.

As I say, before this month is out we may get some holding legislation to basically transfer the current Juvenile Delinquents Act over to the Young Offenders Act, if that October 1, 1983, date is held fast, because we have to have some change of legislation. I suspect that rather than make some long-term decisions right now, when we do not have a full appreciation of all the

definitions mean within the act, that probably is the most prudent thing to do before we leave for the summer. I do not know if that is going to come about, but it might very well. There are a number of questions we are talking about, and the interpretation that is given to them and what we are willing to accept in terms of implementing them may not be satisfactory.

I am sorry to have been so long on my reply, Mr. Chairman. Are there some other questions?

Mr. Gillies: Mr. Chairman, I thank my friends for their indulgence. I will be very brief, but I would like to ask a few questions about the minister's role as the government co-ordinator in reply to the social development committee's report on wife battering. I was a member of that committee and I am very conscious that there have been some areas in which action has been taken already, I think, in advance of the co-ordinated response. I know the Minister of Community and Social Services (Mr. Drea) has acted on our recommendation that all county and regional social services should assume some measure of responsibility in terms of the per diem funding to clinical and transition houses, which is good.

I have a couple of questions though. First, you say in your opening statement you anticipate the response to be coming forward in the near future. Might we hope that could be in this session of the Legislature?

Hon. Mr. Sterling: My problem with this is twofold: I have the initial responses back from the various ministers and I was asked a very pertinent question in the Legislature by Mr. Bryden, I think it was a week ago Monday, about the costs associated with the implementation of any of the answers. That led me to another question as well. I am going back to the various ministries that have answered me and saying: "Now if you were operating outside of your existing financial constraints, what additional measures would you take in order to answer this report?"

In other words, I am trying to look for a more positive response in light of the existing restraints we have in our financial climate at this time and that are placed on our government. So I do have an initial report, and I have read that report. Basically, I am not satisfied with all of the answers. I am going back to those ministers and saying that I want something better in this area or that area, and changes from various ministries. I am subject to five other ministers so it is difficult for me to say I am going to produce

anything by June 30 or December 30. I would hope it would be before that time.

Mr. Gillies: I appreciate the constraints under which you are operating.

Hon. Mr. Sterling: I also think that if I am going to address the problem correctly and do more in this area, which I think is needed, then sooner may not be better in terms of the kind of response.

1:30 p.m.

Mr. Gillies: On two specific points, Mr. Chairman: if the minister indeed has some time to examine the area before bringing in his report, first he said a bit earlier that he saw one of the major responsibilities of the secretariat being in the area of public information—public education, if you will; I hope he will keep in mind that some of our most important recommendations in the long run in that report are in those very areas.

In terms of education, we are recommending that young people be educated not only within the school system as to the seriousness of this antisocial behaviour, but in a media campaign or wide distribution of written material, by whatever means. I hope you will keep that in mind; it might indeed fall within your purview to do that.

A very specific problem, and I saw this at the time of the report as probably one of our most important individual recommendations, was based on the experience of several police departments. We found in cases of assault in the domestic situation that where the onus was on the victim, on the battered wife, to lay the charge, very often charges were not laid. When they were, up to 80 per cent of them were withdrawn at the request of the victim before they went to trial, presumably because of social pressures, intimidation or any number of other factors.

I am sure you are aware of an experiment undertaken with a great degree of success in the city of London. In a clear-cut case of assault, the police took the initiative and laid the charge and prosecuted it vigorously. This experiment I think was seen by our committee and by the experts that came before us as a very progressive measure, and it is working.

At the time of the report, quite frankly my preference was that the Solicitor General (Mr. G. W. Taylor) instruct the chiefs of police to follow this mode. He opted rather to write a letter to the chiefs of police across the province recommending this course of action.

In his estimates the other week, I did question the Solicitor General about this and my specific question was how many police departments had responded to his letter to the effect that they are adopting this procedure. He did not know. He has now undertaken to either write or otherwise contact the chiefs of police by way of follow-up, asking them if they are doing this.

What I am saying is that in formulating the government's response, I hope you would cast an eye on the response of the police departments, take cognizance of which of the municipal police departments have changed their procedures at the request of the Solicitor General and whether, in fact, further and perhaps more definite action from our government might be desirable in encouraging adoption of this procedure.

Hon. Mr. Sterling: I think I have already answered that question in some way, Mr. Gilles, in terms of my response to the general report. Also, because of the emphasis our government has placed on women's issues with the appointment of a senior minister to be responsible for that matter, I am now consulting with that office in terms of the response to the report. I believe this is a women's issue; therefore, in addition to the other ministries, I have a new player.

Mr. Chairman: Thank you. It would appear that our time is up for today. Mr. Renwick, are you satisfied that the issues you wanted to raise under the Provincial Secretary for Justice policy have been dealt with? We are waiting with bated breath.

Mr. Breithaupt: I think he is satisfied they have been raised.

Mr. Renwick: I am not one to preach on these things, but I do think when a situation develops such as the one this morning—and I regret I expressed myself rather more abrasively than I should have on that occasion—it would seem to me to be appropriate that, when a new piece of business has been suddenly put on our agenda from the time the last decision was made, the

way to deal with it would be the way it was dealt with, without encroaching on the time that was available for these estimates.

There is little enough time to deal with these estimates and you had agreed to deal with them on a continuous-sitting basis. As you can see, Mr. Breithaupt and I each had a number of things, and other members of the committee had a number of things we do not often get a chance to discuss in committee. I am quite content and I appreciate the responses the provincial secretary has made.

I would like to make one comment. I spoke about John David Hilton in the estimates of the Solicitor General, commenting of our long association and expressed appreciation to him. I know there is going to be a dinner for him, but I think we would also want to record in these proceedings our appreciation for the long service he has given to the province, even though it has only been a short service with this particular ministry of the government. We will await with bated breath the announcement of the deputy. It might even be time again to have one woman deputy.

Hon. Mr. Sterling: There is a woman deputy.

Mr. Renwick: Is there one?

Hon. Mr. Sterling: Mrs. McLellan is the deputy to the Provincial Secretary for Social Development (Mrs. Birch).

Mr. Renwick: I congratulate you. Apparently, there is a rule there shall only be one at a time.

Vote 1301 agreed to.

Mr. Chairman: Shall the estimates of the Provincial Secretariat for Justice be reported?

Agreed to.

Mr. Gilles: Mr. Chairman, on a brief point: When the matter was under discussion this morning, I hope my friend and colleague would recognize that in supporting the chair's proposition, the last thing I would want to have done is cause offence.

The committee adjourned at 1:37 p.m.

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Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice
Estimates, Ministry of the Attorney General

Third Session, 32nd Parliament
Wednesday, June 15, 1983

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, June 15, 1983

The committee met at 10:05 a.m. in room 151.

After other business:

10:47 a.m.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

Mr. Chairman: Mr. Minister, we thank you for having the patience to sit through our motion, and we welcome the Attorney General and his capable deputy, Mr. Campbell.

Mr. Renwick: Mr. Chairman, may I ask the Attorney General just one question? Is it true that we will not be proceeding with your estimates tomorrow?

Hon. Mr. McMurtry: Yes.

Mr. Chairman: I was also just recently informed of that.

Mr. Renwick: I had heard that.

Hon. Mr. McMurtry: I thought we had indicated that I had had a—

An hon. member: What is going on?

Mr. Chairman: I had been advised that we would not be dealing with the estimates of the Attorney General tomorrow because of a previous commitment he has with the Chief Justice. Is that not correct?

Hon. Mr. McMurtry: Yes.

Mr. Chairman: So we will therefore resume sitting again on Friday to continue with the estimates.

Hon. Mr. McMurtry: Mr. Chairman, I would like to make an opening statement, and as my officials and I were last before this committee only six months ago, I do not propose our opening remarks to go over the ground we covered at that time in any great detail. Rather, I have chosen to raise with members a number of matters of interest within the administration of justice that I believe are of concern to a large number of our citizens.

I hope, of course, to be able to discuss these issues in my usual nonpartisan fashion, and I know that my critics will respond in their customary nonpartisan fashion. As I have indicated to this committee in the past, my officials and I usually benefit from the thoughtful criticism and reasonable comments put forward by

members of this committee, whatever might be their party affiliation or political agenda at the particular moment.

Among the issues I plan to explore with the committee are pornography and obscenity; the impact of our new Constitution, particularly on provincial legislation and regulations; the further expansion of French-language court services; the proposed new federal security act; and the role of women in my ministry and within the administration of justice.

Mr. Conway: There seems to be a certain federal prejudice in some of this. Do you want to tell us where you plan to be a year from now?

Hon. Mr. McMurtry: Here, I hope.

Mr. Conway: But not definitely.

Hon. Mr. McMurtry: We will, of course, endeavour to provide information to the fullest extent possible on any other subjects that members wish to raise. In this regard it would be helpful if members, particularly my two critics, could indicate at the outset, as was done last year, what particular concerns they wish to raise so that we may have the appropriate information and officials on hand before the allotted time expires.

When we were here last in December, I indicated that Rendall Dick, the Deputy Attorney General, was ending his distinguished career in the public service and members paid appropriate tribute to his very significant contributions to the public service of our province.

I am very pleased to have as his successor Archie Campbell, QC, whom most of you have met in his previous incarnation as the Deputy Minister of Correctional Services and before that as Assistant Deputy Attorney General with responsibility for policy and legislative development. Mr. Campbell comes back to the ministry during a challenging time of restraint and with many pressing demands and challenges facing the system. The administration of justice will be well served by Mr. Campbell's keen intellect and legal scholarship, and I am delighted to have his advice and counsel as my deputy.

10:50 a.m.

I plan to deal with the main subjects I want to raise in the order I listed them earlier.

First is the very difficult problem of obscenity and pornography. As members know, the legislative definition of what is obscene is a matter for the Parliament of Canada. But as Attorney General, I have responsibility for the enforcement of these and other sections of the Criminal Code of Canada so I obviously have ongoing concerns about these sections and what may be appropriate amendments.

For years, many persons in our community did not regard generally the issue of pornography as a matter of serious concern. I suppose the reasons for this are multiple, but certainly it was not as readily available except, I suppose, to those who would seek it under the counter and it involved for the most part erotica, adults in various sexual acts. As we only too sadly know, time and technology have changed all of that.

The material now being distributed includes vivid portrayals of the most horrendous violence in which people, usually women, are tortured, assaulted, mutilated and butchered, apparently to satisfy a significant commercial market for such material. As well, and distressingly so, increasing amounts of material involve the exploitation and abuse of children.

The other notable change is in the accessibility of such material. Technology, particularly the development of videotape cassettes and home equipment, has produced an explosion in this material and its accessibility, particularly to young and impressionable eyes.

I have recently written to the Honourable Mark MacGuigan, my federal counterpart, in this regard and in this letter I requested immediate legislative action by the federal government. I stated, in part, as follows: "There has been a continuing increase in the production, distribution and sale of pornographic and obscene material and it has also found its way into the videotape market and is threatening to make inroads into the area of pay television.

"The increase in the problem, in my view, is due not only to technology but also because of the expansion of the subject matter. It was not long ago that wide circulation of either printed material or films depicting horrendous acts of violence and child pornography was virtually unknown. Today, as we well know, exactly the opposite is true and members of the public have been understandably corresponding with me in large numbers, expressing their grave concern and demanding that corrective action be taken

in relation to the production, importation, distribution or sale of this type of material."

It is worth noting that the scientific community's views on the impact on society of such material has changed, I think, relatively dramatically as a result of recent research.

For example, Dr. William Marshall, a Queen's University psychology professor, as a result of his research and treatment of sex offenders has concluded that both hard-core and soft-core pornography directly contribute to criminal sex offences. He further concluded that pornography depicts women in a degrading role that sets the stage for rape. He is also reported as having concluded that pornography and child pornography encourage ongoing sexually deviant behaviour.

Research in the United States has apparently arrived at the same conclusion. Dr. Gene Abel of the New York Psychiatric Institute and director of sexual behaviour at that institution concluded that pornography is directly related to the commission of sexual offences against both adults and children. His study concluded that 48 per cent of child molesters are directed to their activities by pornography.

The view that pornography and sexual crime are related is, of course, not new. For some time there has been a growing concern that films and magazines promoting violence are increasing in numbers and intensity and are both brutalizing and desensitizing.

The International Conference on the Classification and Regulation of Cinema Films cited the Donnerstein and Malamuth study as having indicated that the aggressive pornography rampant today greatly increases the inclination in normal males to commit crimes of violence against women by making physical sexual abuse of women erotic and by perpetuating the myth that women ultimately enjoy rape or physical and sexual abuse.

I have supported in principle the child pornography provisions in Bill C-53 which unfortunately were not legislated by the federal Parliament. I indicated to Mr. MacGuigan that my ministry would renew its submissions on this point if that would assist in moving this legislation forward. To reflect our concern about violence, I have advised Mr. MacGuigan we feel that as well as amending subsection 159(8) to deem undue exploitation of cruelty or violence as being an obscenity, a rationalization of this section compared to clause 159(1)(a) is required.

Briefly stated, subsection 159(8) deems publication to be obscene under certain conditions.

Yet it makes no reference to the written material, pictures, models, photographs or other matter.

My ministry has already made recommendations to Ottawa with respect to a proposed amendment to clause 159(1)(a) to facilitate prosecution of individuals who offer to rent videotapes. Although the renting of videotapes is covered by the words "distributes or circulates," the section generally has been interpreted as being applicable to distributors as distinct from retailers.

Specific provision should also be made in section 159 for forfeiture of seized obscene material after a prosecution has been dealt with successfully in the courts. Although other provisions of the Criminal Code may be applicable with respect to seizure, a specific section in this regard would facilitate effective law enforcement.

Further consideration should be given by Ottawa to creating an offence of possession of obscene or excessively violent material. This is especially important in our view in the area of child pornography.

Before leaving this subject, I can advise you that I raised with Mr. MacGuigan two other areas of concern to me not directly related to proposed amendments to the Criminal Code but which nevertheless are inextricably intertwined with the regulation of pornography and obscenity.

First, I alluded to the difficulties that may be caused by pay television. It was surely not the intent of the Canadian Radio-Television and Telecommunications Commission to facilitate the marketing of pornographic and obscene material when pay television networks were licensed. As pay television is relatively new, it is all the more important that the federal authorities ensure, quite separate from the criminal law sanction, that pornographic materials do not become a fact of life on pay television with the result that further regulation and control become almost impossible.

A second area of concern which I raised has to do with the laws and policies involving the importation of such material into Canada. There has been an apparent diversity of standards by customs authorities at different points of entry. The federal government should determine whether or not regulations in this regard are in need of review in the light of the proliferation of pornographic material, particularly videotapes, that are imported into Canada.

I would like to turn now to the question of the Constitution Act and the Charter of Rights and Freedoms and its impact in this province, par-

ticularly in relation to our legislation and because this will be of particular interest to members of the Legislature because of the major impact on us in our role as legislators. Members will recall that in the speech from the throne the government indicated it would be bringing in legislative measures to ensure that Ontario law and practice are fully consistent with the important principles expressed in the Charter of Rights and Freedoms of the Constitution and in our new Human Rights Code.

11 a.m.

Since the proclamation of the charter and the passage in the Legislature of the code, the government has taken a number of initiatives I am now able to announce. Both events were obviously landmarks in the public affairs of this province and in contemplation of that fact cabinet ordered a thorough review. A committee under the chairmanship of the Deputy Attorney General was convened. It included legal counsel from every ministry. Committee members combed through statutes and regulations identifying potential problems. I believe our system of review to be the most thorough by any government in the country and the first to be completed.

In general terms, the potential problems have been grouped into a number of broad categories. These would include, for example, equality rights, residency requirements and search and seizure powers. By way of illustration, let me deal with the question of equality rights and potential age and sex discrimination in eligibility for benefits, employment, licences and voting.

We all know that in our laws and in our everyday activities we use age as a criterion. As parents we decide when a youngster is old enough to babysit an infant, to date or to stay out until midnight. Over the years, we have also decided by law at what age a person can vote, buy liquor, get a job, enter into a contract or make a will. From time to time, as we have seen with alcohol consumption and voting, the age limit is changed to meet changing social standards.

The Charter of Rights prohibits discrimination on the basis of age unless it can be "demonstrably justified in a free and democratic society." The Human Rights Code prohibits discrimination on the basis of age and generally defines it as meaning "an age that is 18 years or more." However, for employment it defines it as "an age that is 18 years or more and less than 65 years."

Now the question arises whether the code contravenes the charter because it allows dis-

crimination against persons under 18 years of age and, in the area of employment, discrimination against persons less than 18 years of age and those 65 years of age and over. Here the issue is whether these provisions can be "demonstrably justified."

The Ministry of Labour, which is responsible for the code, has established a task force to investigate this matter and to formulate a policy. The question of different provisions on the basis of sex is similar to that of age. The code allows discrimination on the basis of sex with respect to services and facilities where such discrimination is reasonable, and where use of the services or facilities is restricted to persons of the same sex on the ground of public decency. The question again arises whether the code contravenes section 15 of the charter or is demonstrably justified.

An example of a statute which appears to discriminate on the basis of sex is the Fraudulent Debtors Arrest Act under which the arrest powers do not apply to a married woman.

As with those provisions on age, an examination of the policy behind those sections which appear to discriminate on the ground of sex is required and a determination made whether the apparent discrimination is "demonstrably justified in a free and democratic society."

In terms of residency, our review turned up several hundred instances in the statutes in which a residency requirement is imposed. Some statutes require persons to be Ontario residents to qualify for certain types of employment or to hold office in an organization. Examples are the Bridges Act and the Architects Act. Others authorize different treatment for residents and nonresidents. For example, the Provincial Auctioneers Act prescribes a \$50 licence fee for Ontario residents and a \$100 fee for others.

Residency requirements may contravene the charter on two grounds: the mobility rights guaranteed in section 6 and the equality rights in section 15.

In terms of search and seizure, you will recall that section 8 of the charter states, "Everyone has the right to be secure against unreasonable search and seizure." Obviously, the key is to determine what is reasonable or unreasonable.

Our review has turned up a number of acts which authorize search and seizure powers without prescribing guidelines for the exercise of powers and which may need to be examined for any potential conflict with the charter.

Examples of statutes that may contain unrea-

sonable search and seizure powers include those acts which establish a plan for producing and marketing certain regulated products, such as the Farm Products Marketing Act, the Live Stock and Live Stock Products Act and the Beef Cattle Marketing Act, which provide for inspection powers with the right to enter premises and in some cases to seize products.

As well there are taxing statutes which authorize persons to enter premises, examine records and to seize records without a warrant and without prescribing reasonable limits to the power, such as the Income Tax Act of Ontario and the Land Transfer Tax Act.

The Ontario Law Reform Commission in its forthcoming report on powers of entry, has examined the power of entry provisions in Ontario legislation, including search and seizure provisions, and has developed proposed standards for the exercise of these powers.

I have mentioned the issues of equality rights, residency requirements and search and seizure powers. There are other broad categories which we must consider, including citizenship requirements, reverse onus clauses, in-camera hearings, arbitrary detention and limitations on freedom of expression of the press and other communications.

It should not be surprising that our lawyers have identified statutes and regulations which appear to conflict with the new constitutional standards. I use the term "appear to conflict" since in the absence of a direct challenge arising out of a specific fact situation, it is impossible to say with any degree of certainty that the principles laid down by the charter have been breached because of the very general language employed in that document.

In these circumstances, it could be argued that it would be legitimate to leave the statutes as they are and to react only to successful court challenges. None the less, such an approach would not be consistent with the spirit of the charter. I believe that the charter places a positive obligation on governments to bring their laws into line with the charter, even where no challenge is likely to flow from a failure to do so.

Indeed, I believe governments should resolve any serious doubt as to potential conflicts between provincial laws and the charter in favour of the charter. I do not believe we should take a narrow legalistic view of the charter, nor of its potential to enhance the quality of our laws.

I presented to my cabinet colleagues a pro-

posals for legislative reform based on the principle that Ontario, a progenitor of the charter, should live up to the spirit as well as to the letter of the charter. It is my conviction that the Ontario government should be in the forefront of those that assert that the charter provides a sensible and appropriate standard against which official conduct and provincial laws can be measured.

My colleagues agreed to the approach I proposed. Ontario will accordingly bring forward, gradually but steadily, a series of legislative initiatives to ensure greater conformity between our laws and the charter. We intend, we hope with the full co-operation of the opposition parties, to make certain that provincial law and regulations reflect again, not only the letter but the spirit of the charter.

In some cases the appropriate minister will bring in amendments to the statutes that may now be in conflict with the charter of rights. In other cases I hope we will be able to introduce omnibus bills to clear up, in one act, whole categories of conflicts.

Committee members might be interested in a recent Court of Appeal decision on press coverage in juvenile courts, arising out of the Constitution. Mr. Justice McKinnon, the Associate Chief Justice of Ontario, noted that the key statute involved in the case, namely the Juvenile Delinquents Act, was put into place decades before our new Constitution and charter. He wrote:

"This supreme law was enacted long after the Juvenile Delinquents Act and there can be no presumption that the legislators intended to act constitutionally in light of legislation that was not, at that time, a gleam in its progenitor's eye."

The values our generation has seen fit to entrench in the charter have been developed over time and can confidently be bequeathed to future generations as standards against which their society can be measured.

By amending our statutes to conform to the spirit of the charter, we heighten public awareness of the charter and demonstrate our commitment to preserve and transmit the value of individual liberty and fundamental justice.

11:10 a.m.

At this juncture I would like to discuss French-language court services. We reviewed this matter in detail last time, and I do not propose to go over that ground again. But I want to advise the committee that, effective July 1, these services will experience a further major expansion.

The purpose of this expansion is to provide the necessary services to francophones, Franco-Ontarians, living outside the areas designated for services in the civil courts. Members will recall that French-language services are available for persons before any level of the criminal court system wherever the charge is laid in Ontario.

Under the latest initiative, as of July 1, French-language services will be available in the provincial court, family division, in 19 locations, including Kingston, Belleville, Oshawa, London, Chatham, Kitchener, Sarnia, Brampton, Midland, Hamilton, Newmarket, Milton, St. Catharines, Thunder Bay, Geraldton, Longlac, Manitowadge and Marathon.

In addition, French-language services in the small claims court will be extended to the following 17 locations: Kingston, Belleville, Oshawa, Whitby, London, Chatham, Kitchener, Cambridge, Sarnia, Brampton, Midland, Hamilton, Newmarket, Milton, Burlington, Oakville and St. Catharines.

The right to the use of the French language will also be ensured in the provincial offences court located in Oshawa, Ajax, Chatham, Brampton, Mississauga, Penetanguishene and Hamilton.

In addition, the Supreme Court of Ontario, which now holds bilingual hearings in Ottawa, Toronto and L'Orignal, will extend its French-language services in the designated areas, or districts, of Algoma, Cochrane, Nipissing, Sudbury, Timiskaming, the united counties of Stormont, Dundas and Glengarry, the counties of Essex and Renfrew and the judicial district of Niagara South.

In the past some members have complained that we have initiated and then repeatedly expanded this service without the fanfare that attends some new efforts. Mine, as we all know, is a modest ministry not given to tooting its own horn.

Mr. Breithaupt: Several members: "Oh, oh."

Hon. Mr. McMurtry: But in this case we have embarked on a public education and information campaign. This involves the publication and distribution of a poster, of which I am very fond, highlighting the service available. A book with more detailed information became available yesterday, and I would like it to be distributed.

Mr. Chairman: It has been. You are talking about this book?

Hon. Mr. McMurtry: Yes. We have also done a modest amount of advertising of the availabil-

ity of these services in the French-language press.

Before going on to the other items on the list I want to spend a few moments indicating the progress that we are making in accommodation and administration, which of course are the nuts and bolts of the justice system.

It must be kept in mind that when the province took over court facilities from the municipalities we inherited a number of neglected premises and a shortage of space even then, which I guess was back in 1968. With rising case loads, increasing personnel and limited resources it has been a constant challenge to meet our space requirements.

But progress has been made and is continuing to be made. In the past year we have improved facilities in Welland, Chatham, Oshawa, Parry Sound, Sudbury, Toronto, Smiths Falls, Brampton, Hamilton, Cambridge, Cobourg, Ottawa, St. Catharines, Kingston and Sarnia. We are planning improvements or expansions in Alexandria, Collingwood, Cobourg, Welland, Whitby, Chatham, Thunder Bay, Lindsay, L'Orignal, Windsor, Brantford, Woodstock, Newmarket, Kitchener, Oshawa, London and Windsor. My officials will be pleased to provide whatever details on these projects any member or members may wish.

As members well know, the part of the court system that most people come in contact with is the provincial court, criminal division. It receives more than four million cases a year ranging from the most serious criminal charges, such as murder, to parking offences.

Criminal charges received by the courts increased slightly to 352,822 charges from 351,497; pending case load has been reduced to 18 per cent of the dispositions or approximately a work load of 60 calendar days. Narcotic charges declined from 27,126 in 1981-82 to 21,764 in 1982-83; the pending case load has been reduced to 14 per cent of the dispositions. The provincial offences courts handled approximately the same load as the previous year and the work load is current.

Municipal parking bylaws are a very heavy case load factor in the provincial courts. A new bylaw in Metropolitan Toronto was introduced and it, along with additional court sittings, has enabled the courts to reduce the backlog by 700,000 charges during the year. At the present disposition rate, the backlog will be eliminated in the fall of 1983.

As I have indicated in periodic public state-

ments, the computerization of the criminal court offices is continuing. Oshawa, Hamilton and Peel have been completed. Ottawa is being converted at the present time. London, Windsor, Kitchener and Newmarket will be completed before the end of this fiscal year.

On June 7, 1983, Management Board of Cabinet approved the implementation of a computer network for Toronto. This system has been developed entirely by staff of my ministry. It will be the largest computerized court system in Canada. The first phase is expected to be operational by the end of 1983 and the balance installed over the following 18 to 24 months.

The members will recall that use of computers in the provincial court, civil division, was introduced into the municipality of Metropolitan Toronto on June 30, 1980, as an experimental project. During 1981 and 1982, the operation of the court was closely monitored. We are of the view that the project has been an unqualified success.

The number of claims filed far exceeded our estimates of 6,000 per year. In 1981, 13,300 were filed and in 1982, some 16,100 were entered in the court. Litigation expenses for parties have been reduced and disputed matters are being adjudicated within a reasonable time. Last December, legislation was introduced and passed to make this court permanent.

The increased monetary jurisdiction of the provincial court, civil division, to \$3,000 attracted more complex matters including motor vehicle accident claims and contractual matters. The nature of such claims requires greater judicial time than most of the simple matters under \$1,000.

In order to ensure that all defended matters are set down for pretrial hearings and for trial as quickly as possible, the ministry appointed a trial co-ordinator in December. Since that appointment, matters ready for trial are being set down for trial within 60 to 90 days, where previously the waiting time might be five to six months.

The operations of this court were analysed to consider computerizing the system. It was recommended that a computerized system be developed for the four metropolitan small claims courts based on a central minicomputer with remote terminals to the three other court locations. It is expected that a system will be developed and implemented during the coming year.

In the Supreme Court and county and district

courts, we are also examining ways to improve administrative efficiency. A feasibility study has been completed on a program to computerize the sheriff's execution index, allowing the search for and the production of certificates and abstracts. A submission has now been prepared for Management Board seeking permission to request tenders. The computerization of the sheriff's search system would provide much improved service to the legal profession and public to reduce the possibility of error.

In county court here in the judicial district of York, two projects are under way. The first is the computerization of the criminal list including important data contained on the file. This will permit the court immediate access to material on all outstanding indictments and permit greater control of the trial lists.

11:20 a.m.

Second, the judges of the country court bench in York are preparing a submission that will detail the information that would be the most beneficial to them. The ministry will undertake a feasibility study in turn.

For the court of appeal the computerization of the list of cases ready for trial, including important file data, is being studied. This service would permit the court easier access to information on outstanding appeals.

Mr. Chairman, at this point I would like to spend a few minutes discussing the proposed new Canadian Security Intelligence Service.

One of my responsibilities as Attorney General, one of the very important traditional responsibilities, as you all know, is to remain vigilant in respect to any threats to the traditional liberties and safeguards provided our citizens.

When I first saw and read this legislation, quite frankly I was startled at the federal government's apparent disregard of legal traditions and fundamental freedoms. In my view, this disregard is displayed throughout that legislation.

The legislation could result in members of church agencies, political organizations and special interest groups having their phones tapped, their mail opened and their homes broken into simply for engaging in what most Canadians regard as legitimate activities.

The meeting of Attorneys General held in Charlottetown shortly after the introduction of the legislation issued the following special communique which, for the most part, was drafted by myself and my senior advisers. It stated in part:

"The provincial Attorneys General meeting in Charlottetown deplore the massive threat to the rights and freedoms of all Canadians posed by the federal government's proposed new security force. The act establishing the Canadian Security Intelligence Service represents an assault on democracy. It jeopardizes Canada's traditional reliance on the rule of law and our open and public system of law enforcement and justice. It calls into question the commitment of the federal government to the principles of the Canadian Charter of Rights and Freedoms."

As yet, the federal Solicitor General has apparently seemed unable or at least unwilling to grasp the significance of what this legislation could do to this country. I for one intend to keep reminding him in the hope that he will withdraw this legislation and start over again. I hope members of this Legislature, of whatever political persuasion, will see fit to voice their concerns as well.

At our meeting, my colleagues from the other provinces and territories and I concluded our communiqué by stating:

"Provincial Attorneys General recognize the legitimate need for an effective security service and agree with the ultimate objectives of the federal government in attempting to improve the present structures. But it is essential that the means used to achieve those ends not destroy the very freedoms they were intended to secure."

From that, I would like to turn to the matter of the status of women in my ministry, which I think is particularly relevant for many reasons, specifically in relation to the appointment of a minister with special responsibilities in this area.

Let me therefore say at the outset that I am delighted with the appointment of one of my predecessors as Attorney General, the Honourable Robert Welch, as the Minister responsible for Women's Issues within the government.

Mr. Breithaupt: He is one of everyone's predecessors.

Hon. Mr. McMurtry: That is a pretty safe comment to make about Bobby.

I think it would be of interest if I were to provide you with some brief statistics from the affirmative action program of the Ministry of the Attorney General.

Within the administrative module, which includes management occupations such as court administrators, deputy sheriffs and registrars, women have made steady gains since 1974-75, at which time they represented 26 per cent of the

employees in that group. They currently form 40 per cent, an increase of almost 70 per cent, I am pleased to note, during that period in which, for the most part, I have had the privilege of serving as the Attorney General.

Similar progress has been made in the professional module, which includes management occupations such as crown attorneys and social workers. Since 1974-75, when women formed nine per cent of professional staff, representation of women in this module has risen to 19 per cent of staff. Women's representation more than doubled during this period with a percentage change of 111 per cent.

Within the bargaining unit, the proportion of women in the administrative services has continued to build from 34 per cent to 38 per cent, an increase of 12 per cent. This category includes occupations such as administrative officer and office supervisor. The representation of women within the administrative module and the administrative services category has exceeded 30 per cent for some years. This is particularly gratifying as these areas continue to be under-represented elsewhere in government.

Let me give some other representative statistics. In 1973-74, there was one female lawyer in the Crown Attorney's system. Now there are 29. Of 43 openings for lawyers last year, 18 or 41 per cent were filled by women. We recognize the need for continuing progress, and I have quoted these figures not to demonstrate any degree of complacency, but as an illustration of our commitment.

Mr. Chairman, in the past we have spent time on the Metropolitan Toronto Police Force Complaints Project Act. I do not intend to discuss it in detail this year unless members wish me to do so. The report of the project for its first full year of operation has been printed, and will be tabled in the Legislature as soon as possible. I would like to quote from the preface to that report by Sidney Linden, the public complaints commissioner:

"While it is premature at this time to draw any final conclusions, we have made great strides and advanced the project beyond our early expectations. When we began, in view of the history of this subject matter, there was considerable misunderstanding and scepticism about how the new system would work.

"During the year we learned there are no quick answers to these very complicated questions. We learned that police-community relations should not be viewed as a problem that has a solution. It should be viewed as a continuing

situation, and we must recognize that as long as there are policemen and civilians, incidents will occur. Therefore, it is vital that an agency such as ours should exist within the community to deal with these incidents when they do occur.

"Throughout, our objective has been and will continue to be to improve relations between the police and the community. As the year progressed we were confronted with issues and made decisions about matters that could not have been contemplated prior to commencement. That is the very essence of a pilot project. However, the system is now in place and civilian review of police conduct, which was once thought of as extraordinary, is occurring routinely. Furthermore, it is my view that the full potential of this office has not yet been realized."

11:30 a.m.

I think this project holds great promise for maintaining and enhancing relations between the force and the people of Metropolitan Toronto. I mention the project specifically because I do regard it as one of the more important initiatives to have taken place during my stewardship.

I would like to turn to the significant developments which have occurred in the area of child abduction. All members of this committee will be most aware of the high priority I have given to this most important and heart-wrenching of issues. I am delighted that a number of our efforts have come to fruition in the last little while.

The committee members will recall that last year's Children's Law Reform Amendment Act adopted the provisions of the Hague Convention on the Civil Aspects of International Child Abduction. The convention is one of which we in Ontario can be particularly proud since Ontario played a major role in the development of the convention at the Hague Conference on Private International Law.

Although Ontario's adoption of the Hague convention provisions has been in place since last October, just last week the federal government ratified the convention on behalf of those provinces of Canada which have adopted the convention. France had earlier ratified the convention, which will come into force for Ontario as soon as there is one more ratification. Countries which have signed the convention and are expected to ratify it in the near future include Belgium, Greece, Portugal, Switzerland and the United States.

The Hague convention requires any member state to return a child wrongly removed to another member state. A removal is considered

wrongful where it is in breach of custody rights according to the law of the state where the child was habitually resident, whether those rights arise by operation of law, court order or agreement.

The convention establishes administrative mechanisms which require government authorities to assist in carrying out the provisions of the convention. In Ontario, I am proud that the function will be performed by the Ministry of the Attorney General. Unlike provisions which apply to the enforcement of custody orders, the provisions of the Hague convention for returning children are based on reciprocity.

Accordingly, I am sure that all members of this committee share my firm wish that many other countries will ratify the convention. In particular, we look forward to ratification of the convention by the United States, since that ratification will give the convention special significance for a great many Ontario residents.

A further and very important accomplishment in this field occurred last October 1, when Ontario established itself as a world leader in the campaign to stop child abduction by proclaiming the Children's Law Reform Amendment Act. As a result of this legislation, major new benefits became available to an Ontario parent whose child is in danger of being kidnapped by the other parent.

To enforce access and custody rights and to prevent one parent from abducting the child from the other parent, a court is permitted to: (a) order supervision of custody and access rights by an impartial third party; (b) appoint a person to mediate custody and access provisions; (c) order one party not to harass the child or another party; (d) punish contempt-of-court orders; (e) direct a peace officer to assist in securing custody of a child being withheld unlawfully from the person entitled to custody or access; (f) order public agencies to disclose the address of a person in breach of an order; (g) order a person to surrender his or her passport while exercising custody or access rights; and (h) order that a person provide security when he or she proposes to remove the child temporarily from Ontario.

Ontario is also leading the way in eliminating the kidnapping havens in Canada. The legislation will discourage parents from bringing an abducted child into Ontario in the hope of obtaining a custody order here. If the child is resident outside of Ontario the court will be able to order the child returned to his home province or country, and if a custody order has already

been made outside Ontario, the courts will enforce the order in Ontario unless the child is in danger of serious harm.

These provisions of the Ontario legislation have been recommended by the Uniform Law Conference as model legislation for all Canadian jurisdictions. Early indications are that the legislation is working well and has given strong support to Ontario's efforts to prevent child abduction.

The final development in this field to which I would like to refer at this time is the recently proclaimed child kidnapping provisions of the Criminal Code. As members of the committee are aware, these provisions apply both where there is a custody order and where there is no custody order. Members will also be aware that the Criminal Code requires the consent of the Attorney General before a prosecution can be laid under these provisions where there is no custody order. I have made it clear to all crown attorneys that they are to prosecute vigorously in all cases of child abduction by parents.

In circumstances where a child has been taken from the person with custody where there is no custody order the situation is obviously more complex. Although my senior advisers are continuing to refine the criteria that should govern my decision in these cases, I thought members of this committee would be interested to learn of the principal factors that have been thus far identified:

1. Whether or not the parents have been living separate and apart during a period prior to the alleged abduction. If they have been, this factor might favour consenting to a prosecution.

2. Whether the potential accused is the person with whom the child has been living before the abduction. If a child had been living with one parent who decided, for example, to move to British Columbia and thereby took the child out of the jurisdiction, it may be that charges would not be warranted. However, consideration would have to be given to whether the other parent had shown any interest in the child or had had regular access to the child.

3. The age of the child.

4. Whether the abducting parent took the child out of the jurisdiction, the province or the country.

5. Whether the offending parent immediately returned the child to the parent from whom the child had been taken so that the breach was very much a technical one.

6. The care that had been given to the child by the parent with *de facto* custody.

7. Motivation of the offending parent.

8. Whether or not custody litigation was pending and the abduction took place in anticipation of an unfavourable ruling.

9. The wishes of the parent from whom the child was taken.

10. Whether any other criminal offences were committed at the time of the abduction.

Although emotions obviously run high in these cases, I trust the factors listed above will convey to members of the committee some of the complexity in these difficult cases. I welcome comment on and discussion about these factors as well as other recent developments in the area of child abduction.

Mr. Chairman, this is my opening statement. I know that other issues of importance and interest will be raised during the course of these estimates and discussions. I look forward to these discussions and, of course, to the opening statements from my critics.

Mr. Breithaupt: Mr. Chairman, I know the members of the press gallery are anxious to leave; as a result, before I begin my remarks, I am sure they could benefit from two particular themes the Attorney General did not address in his comments.

First of all, I wonder if he can bring us up to date on the circumstances with respect to the Norcen matter. It is my understanding that he has information that could at least summarize what this situation is now that some year or 14 months have gone by over the length of this event.

The other area I would like him to speak to, because I know there is particular interest in it, is the opening today, according to Dr. Morgentaler, of the Toronto clinic which has been before us, not only substantially in the media but also in the Legislature.

Can the Attorney General briefly refer to the current circumstances in those two areas, which I think would be of interest not only to members of the committee but obviously also to members of the press gallery?

11:40 a.m.

Mr. Chairman: Is that how the committee members wish to proceed?

Mr. Mitchell: That is fine. In fact, if at any time we can raise a couple of questions referring to the minister's statement, it would be well appreciated.

Mr. Chairman: I would prefer to progress through the two opposition critics' statements without questioning from other committee members at this stage, but if the committee members

wish to have the Attorney General reply to those two suggestions, I would be more than willing to agree.

Hon. Mr. McMurtry: Briefly, as invited by Mr. Breithaupt, it was announced by the Metropolitan Toronto Police force last week that the Norcen investigation had been completed and that the investigating officers, after receiving legal advice from crown counsel, have determined they will not lay criminal charges against Norcen or any officer or director of that company.

First, by reason of the fact that Mr. Renwick has tabled two questions in relation to the Norcen investigation, I expected that this would be a matter of discussion during the course of these estimates. At the appropriate time, I will have a more detailed statement to make, but I do not think it would be appropriate to make it at this time because that statement, in turn, will probably produce some degree of discussion.

I think it would be preferable to have the opening statements of the two opposition critics rather than having a fragmented discussion on Norcen, for example. I would prefer that discussion, if it is going to take place, to take place at one time and be concluded at one time.

With respect to Dr. Morgentaler, as I have said in the Legislature, at this point this is fundamentally a matter for the local police force, which undoubtedly will be getting advice from my local crown attorney's office. It is obviously of great public interest, but it is clearly a matter that involves local law enforcement and the local crown attorney's office.

The Attorney General will not be directing the police investigation as has been suggested in the press in this matter, any more than I have ever directed any police investigation in any other matter during the almost eight years I have had the privilege of serving in this office.

I know the local police force has been in touch with our crown attorney's office. I do not know the nature of the discussions, but obviously they are well aware of the public interest in this matter.

Mr. Breithaupt: We can proceed then with the Norcen matter, which no doubt my colleague the member for Riverdale (Mr. Renwick) will be raising. I can make that one of the comments as well to which you may choose to respond after my introductory comments.

The time between the seasons is as short as memory is long, and I recollect, as the Attorney General has said, that it is just some six months

ago that this committee convened to discuss the estimates for the previous year.

At that time we received a formidable brief from the Attorney General of some 50 pages, from which he made a plea in high eloquence on behalf of a strong and vital system of legal aid and, in particular, for community legal aid clinics.

The Attorney General said as follows: "At its most basic, the rule of law means that no person is above the law and that all persons are governed by objectively determinable laws rather than by the subjective whims of individuals. It is the rule of law which separates freedom from enslavement, democracy from tyranny.

"The rule of law can only survive if it is cherished and enforced by all members of society. Legal aid brings the rule of law to a substantial segment of society, and in so doing strengthens considerably its base of support. That strengthening of the base of support for the rule of law strengthens the liberty of us all."

Those memorable words on the rule of law are as worthy of Sir Thomas More as of anyone and we should be guided by them. Indeed, today's 38 pages of opening statement contain a number of other themes that are every bit as lofty and valuable as we discuss the administration of justice in this province.

During the previous year's estimates, I had attempted to weave the pattern of my thoughts on the thread of two themes, those of compassion and confidence. The year before that, I had reflected upon the nature of the system of justice in our province and upon the importance of that system for the life and character of our community, referring to it then as the "highest manifestation of the ideals of the democratic society in which we live."

These ideals of democratic society are something with which I think we should all be involved, and I am certain that all members are concerned with that theme.

Recently there has come to my attention a book published last November entitled *An Immodest Agenda*. Its author is Professor Amitai Etzioni of George Washington University. Professor Etzioni calls for the reconstruction of the ideals of American society upon the foundation of a dual concept which he calls mutuality and civility.

By mutuality, he means: "Not for ego to sacrifice itself to other, or to a higher cause, but for both ego and other to attend to each other and to a shared world. I hence refer to it as mutuality."

By civility, he means: "A commitment to shared concerns, to matters that affect all but are not necessarily any one person's business." There are three attributes or components to his idea of civility: "playing by the rules, participating in public life and shouldering some specific shared concerns in the service of the common weal."

I commend the book to my colleagues. Though his conclusions are based upon American social phenomena, they are no less relevant to the Canadian experience. In my view, they are no less relevant indeed to the elaborate workings of the system of the administration of justice in Ontario.

Using therefore the doctrine of mutuality and civility as my philosophic marker, I wish to discuss at some length a matter of grave social importance with which this ministry must become more involved. I raised the subject with the minister in charge of the Justice secretariat last week, and I promised then that I would discuss the matter with the Attorney General. In some instances, I shall merely repeat some of my earlier remarks in the Justice secretariat estimates.

It is interesting to see the worthy coverage that both the *Toronto Sun* and the *Globe and Mail* gave today to the questions asked in the Legislature yesterday by my leader with respect to hate literature. These issues are beginning to have greater impact and importance.

My comments last week on the subject will be reinforced by my comments today; I know these comments have to be repeated time after time not only to attract the interest of various members of the media and of the general public but also to ensure that members of this Legislature are kept aware of the difficulties faced by the many people who are threatened by hate literature and by the increasing practice and problems of anti-Semitism and racial bigotry within our society.

There is a threat posed to our community by this insidious encroachment of bigotry and prejudice into a traditional free and democratic way of life. There are increasing incidents and attitudes of anti-Semitism and, as public figures, we all have to be concerned about the wellbeing of our society.

Anti-Semitism is on the increase, and we all have an obligation to suppress it and to wage battle against it, as we do all forms of religious and racial intolerance. We must not remain silent, for the evil of bigotry finds a hospitable climate in a landscape of silence.

Yesterday, the Attorney General unveiled a

plaque which formally announced and codified the six-principle policy statement on race relations in Ontario. The ideals enshrined in that paper are the ideals which we must enshrine into the standards of behaviour for our community. Nothing less can be our object. Unfortunately, in the last few months, far less has been demonstrated in some areas of our community.

11:50 a.m.

As you will recall from my earlier comments last week, in advance of wide distribution of the Review of Anti-Semitism in Canada, conducted by the League for Human Rights of B'nai Brith, there has since been some media attention given to the areas that were concerned in that publication. In 1982, so it was reported, the province of Ontario registered the largest number of anti-Semitic incidents in Canada, a total of 34. However, lest we are comforted by this seemingly small number of incidents, the report did state as follows:

"Since this is our initial survey, it should be emphasized that the list of incidents recorded is by no means exhaustive. Many incidents in which anti-Semitism is a factor go unreported. One reason is that Jewish institutions and Jewish communities around the country may want to avoid publicity that might encourage initiative or repetitive behaviour patterns that would result in additional assaults. It is, therefore, likely that the actual number of anti-Semitic episodes was considerably higher . . . Human rights commissions and police estimated that for every incident reported, as many as four or five may have actually occurred."

The report continues as follows:

"The war in Lebanon last summer has generated a barrage of anti-Zionist and anti-Semitic propaganda, unprecedented in both its volume and intensity . . . not only on the political legitimacy of Israel but on the moral and ethical image of Jews throughout the world.

"This campaign against the Jews has taken two contradictory forms. The first is a movement to proclaim the holocaust a hoax . . . the second has taken the form of an analogy drawn between the war in Lebanon and the holocaust.

"The campuses of Canadian universities have become a testing ground for this propaganda campaign. At the University of Ottawa there were attempts to deny the Jewish student organization official status on the campus on the basis that as a Jewish group, they are Zionists . . . Jewish students have also been targets of verbal and physical abuse . . . Although the situation at

the University of Ottawa campus was the most severe, it was indicative of the general deterioration in the situation of Jewish university students across Canada."

There is a role for the machinery of justice to respond to these foreboding developments. This ministry can and must assume a position of responsibility publicly and forcefully to combat this woeful bigotry. The traditional institutions of our society—included among which are we, the political leaders and the system that administers justice—must respond to minorities in distress. When assaulted by prejudice of any kind, the intended victim must believe that the institutions of society will stand at his or her side. This belief must be widespread, commonplace and unshakeable.

The Jewish community in our midst is now a community apprehensive and tense in some aspects. Since the war in Lebanon last year, it has experienced the callous base acts of open bigotry not seen here for many years. The hideous passions of Nazis, neo-Nazis and just plain bigots have been smeared shamelessly in the downtown of Toronto. There have been some threats against the property and the persons of some prominent members of the Jewish community. Recently, there are even reports of actual neighbourhoods living in some fear of being terrorized by marauding gangs of anti-Semitic toughs.

By citing these facts, it is not my intention to alarm or to sensationalize. I simply repeat the situation as it is known to me, in the mood in which it was told to me.

A key observation arising from the comprehensive study conducted last year by the federal multiculturalism branch of the Department of the Secretary of State has set out that in our multicultural coexistence in this country, there was the following problem:

"Canada has gained the reputation of being one of the world's worst offenders in distributing hate literature. Not only has such literature been circulated in Canada but this country is one of the largest mailing centres of hate literature to the rest of the world."

Unfortunately, it would appear that the Attorney General is correct in saying that the centres of distribution for Canada are in Ontario. The Leader of the Opposition (Mr. Peterson) discussed this matter yesterday in question period in the House.

In Flesherton, Mr. Ron Gostick, running an organization that rather ironically calls itself the Canadian League of Rights, disseminates hate

literature country-wide. It is from him that the mayor of Eckville received his material.

In Toronto, as I have earlier mentioned, Mr. Ernst Zundel and his company, Samisdat Publishers Ltd., are the suppliers. Indeed, the West German government has described him as one of the 10 largest purveyors of Nazi propaganda in the world.

I believe there was a slight error in the Attorney General's response to my leader yesterday, when he said in the Legislature that a lot of Mr. Zundel's material was said to come from West Germany. In fact, the very opposite is the case. He is a prominent supplier to West Germany, where the mere possession of this kind of propaganda and paraphernalia from the Hitler years constitutes an offence.

In the past, the Attorney General has been justifiably reluctant to commence criminal proceedings against these persons. Convictions under the present wording of the Criminal Code are very difficult to achieve. Moreover, there is always the risk of making a martyr of the person and of the cause merely by virtue of the trial procedure.

However, in view of renewed anti-Semitic stirrings, it is perhaps now appropriate to reconsider this policy against prosecution. Last year on this very subject, the Attorney General said: "While distribution of hate propaganda continues to be a problem, it is not as great a problem as some people might have feared when one looks at the context of the debate that took place prior to its passage in 1965."

I ask the Attorney General now to look at the shifting context of the debate since last year. As an alternative, perhaps the Attorney General should at least consider undertaking to recommend changes to the present wording of the Criminal Code to the federal authorities. Various proposals have been suggested not only by B'nai Brith but also by the Canadian Jewish Congress.

Quite apart from the actions at the federal level, there are still a host of provincially competent measures which the Justice secretariat is aware of; I referred to those last week. Some of those examples would be the possible commissioning of a report or white paper from either the Justice secretariat or from the Law Reform Commission on the problems confronting a democratic society in attempting to deal with the propagators of hate. That was a suggestion which, as you will recall, was made by the member for Riverdale last year.

Indeed, the laws of libel and slander should

also be considered with respect to reform to perhaps enable an identifiable group that is singled out for hatred and contempt to commence proceedings by way of a class action. That whole theme of class action is becoming a greater concept of interest within our society, whether it deals with consumer matters or whether it deals in areas such as this one.

The Minister of Labour (Mr. Ramsay) could well consider strengthening the race relations division of the Ontario Human Rights Commission. He could also consider further amendments to legislation for which he is responsible that might establish a cause of action under his legislation for a violation of that sort.

The doctrine of mutuality and civility draws us inescapably to the need for action in this matter. Let me repeat at this time the opening remarks which appeared in the Cohen commission report on hate propaganda and hate literature:

"This report is a study in the power of words to maim and what it is that a civilized society can do about it. Not every abuse of human communication can or should be controlled by law or custom. But every society from time to time draws lines at the point where the intolerable and the impermissible coincide. In a free society such as our own, where the privilege of speech can induce ideas that may change the very order itself, there is a bias weighted heavily in favour of the maximum rhetoric whatever the cost and consequences. But that bias stops this side of injury to the community itself and to individual members or identifiable groups innocently caught in verbal cross-fire that goes beyond legitimate debate.

"An effort is made here to re-examine, therefore, the parameters of permissible argument in a world more easily persuaded than before because the means of transmission are so persuasive. But ours is also a world aware of the perils of falsehood disguised as fact and of conspirators eroding the community's integrity through pretending that conspiracies from elsewhere now justify verbal assaults—the nonfacts and the nontruths of prejudice and slander.

"Hate is as old as man and doubtless as durable. This report explores what it is that a community can do to lessen some of man's intolerance and to prescribe its gross exploitation."

It will be obvious to the Attorney General that I attach a great deal of importance and priority to this area. I know of the Attorney General's own long-term interest and commitment to leaders of the communities involved

with these particular problems, but I have set this issue deliberately at the head of my opening remarks to demonstrate and underline that importance.

12 noon

With those comments, I will deal briefly with a number of other areas of general interest on which I would appreciate hearing the Attorney General's views.

At the opening of my remarks, I asked for a comment on the Norcen affair, and I know that the member for Riverdale will undoubtedly refer in his opening remarks as well to the situation there. The Attorney General apparently has some statement or material that he is prepared to present to the committee after the initial remarks from the opposition critics, and perhaps he would place it at the top of his list so that the particular interest in this subject can be developed early during the time of these estimates.

One of the areas I found interesting in looking at the estimates of the Provincial Secretary for Justice (Mr. Sterling) last week was the response he gave to concerns with respect to the operation and function of the Ministry of the Attorney General. In his remarks last week with respect to the operation of security, and matters raised not only in the letter with which the Attorney General favoured us, a copy of which went to all members of the parliament of Ontario, but also dealing with the press comments, the Provincial Secretary for Justice spoke of the role and function of the Attorney General's office itself.

The provincial secretary said this in response to a comment by the member for Lakeshore (Mr. Kolyon):

"They have perhaps a system"—in the United Kingdom, that is—"which the federal government should seriously look at, and that is a separation of the Attorney General from the general political structure. He is responsible primarily to Parliament rather than—he is not a member of cabinet. He is responsible to Parliament. That to me represents another kind of solution that I would personally favour rather than not having the buck stop anywhere along the process."

That is an interesting comment. I do not know whether the Attorney General is aware of the attitudes of the Provincial Secretary for Justice. Of course, then the member for Brantford (Mr. Gillies) was able to comment immediately thereafter: "I could not agree more with your previous comments, that when one looks at the McDonald inquiry, how Mr. Kaplan

could have arrived at this model in view of what Mr. McDonald turned up is incredible to me." Other members were interested in this particular theme.

Now I do not for the moment say that the member for Brantford was in any way—

Mr. Gillies: Mr. Chairman, just on a brief point of privilege—

Interjections.

Mr. Gillies: Mr. Chairman, I am sure my comments when I said I could not agree more were more in reference to Mr. Kaplan's arriving at the model he used in the drafting of the bill after the experience of the McDonald inquiry.

Mr. Renwick: I will vouch for that.

Mr. Gillies: Thank you very much. I cannot imagine that I would ever have suggested that the Attorney General not be a member of cabinet, and I never would.

Interjections.

Mr. Breithaupt: I was going to make entirely those comments, because I presumed his reference was to the earlier general theme, and I am sure he would not choose to jeopardize his political career in any way.

In any event, it is an interesting theme, an interesting view of the possibility of changes, because as we look back over the history and operations of the function of the Attorney General, they are of course to be—indeed, more particularly in the United Kingdom—entirely divorced from the government of the day.

The responsibilities of the Attorney General and that historic tradition are, I believe, deeply and honourably considered by the present holder of this office in Ontario. His independent point of view and his commitment to dealing with the administration of justice without fear or favour in the best sense of that tradition is something that I would not question for a moment.

But it is an interesting thought that this whole theme of accountability now comes before us in response to the position the Solicitor General of Canada has taken in developing this new security framework. I have certainly read with great interest the material with which the Attorney General has favoured us and the communiqué that had been agreed to by the other provincial Attorneys General at their meeting during the last week in May. I believe this is a theme which will require ongoing discussion and a thorough airing.

It appears from even my brief review of the material that has been made public over these

last several weeks that there now are concerns and changes, and a variety of positions which are being taken by the federal authorities as they look at the interest their suggestions have generated, not only among the provincial Attorneys General but also, as reported in the media, from a variety of other opinion leaders and makers within our society.

A second theme I would like to develop more particularly is one dealing with driving offences and the drinking age. It is curious how these things seem to go in cycles. In the last several months, from the recent clippings I have in one file alone, the variety of interest in drinking and driving offences seems to have reached not only the provincial courts but has gradually worked its way up to a higher profile in the Court of Appeal.

I recognize the drinking age is no simple issue. A recent article has referred to the cost of drinking and driving being, particularly for young people, teenagers in this province, a cost of some 1,500 lives a year. Let me repeat a theme I raised in the estimates of the Provincial Secretary for Justice. We were all surprised about the publicity and ongoing interest which occurred as a result of that most unfortunate Air Canada incident at Cincinnati in which 23 people died.

This occasioned front-page coverage, lengthy articles, page after page of interviews, all quite worthy for that tragedy. There was the unfortunate picture of the smouldering aircraft on the front page, writ large, of the three Toronto newspapers. There was much television coverage given to that. But if one multiplies the 23 people who died on that occasion by the 52 weeks in the year, one will come up with a figure not unlike the 1,500 teenagers who are going to die in this province alone from the results of accidents which involve alcohol. Surely the people of Ontario would not accept seeing that kind of Air Canada message brought before them every single week of the year without demanding immediate action.

It is a theme by which perhaps we have all become somewhat numb. One looks at the page after page of comment and the television interviews, the concerns about the families and survivors, and the difficulties which that whole unfortunate event brought to the floor of our own Legislature because of a distinguished civil servant in the Ministry of Community and Social Services who lost his life in that matter. Yet how do we deal with this other theme?

It seems only slowly that it is getting the

attention it deserves. We have perhaps all become numb by this toll within Ontario. I suggest that if those 23 or 30 lives were lost on one occasion every week across the year in this province, the publicity and the demand that something be done would shake the rafters of this building. Fortunately, there seem to be some changes, but the changes are slow and I encourage the Attorney General to recognize, as he does, and more particularly through the publicity available to his ministry, state his concerns about these teenage deaths.

I am the first to agree that the simple raising of the drinking age is nothing magical. It was 18 and then moved to 19. While we have concerns as to whether it should be 20 to make sure it is out of the high schools or whatever, that is a rather facile answer to the problem. There are more things involved than just that. The questions that have to be asked deal with the effects of drinking by teenagers. Certainly many will continue to drink one way or the other. Indeed, as I recall from my university days, it was not any fun to drink once you were 21. Perhaps that attitude has changed. There seemed virtually no point in it.

12:10 p.m.

Mr. Mitchell: Are you suggesting you got your education out behind the barn?

Mr. Breithaupt: I certainly received it at my mother's knee, or in some such low joint, one way or the other.

In any event, there may be 25-year-olds equally at risk. There are problems. Looking back even to the heady days of the select committee on company law, we dealt with the whole problem of licensing of drivers, trying to maintain effective records, trying to ensure that the driver's record was a more important criterion in the value and the charges for automobile insurance than simply the person's age, sex or marital status.

We can go back to the arguments with respect to people who are old enough to vote, marry, hold a job, or serve in the armed forces. Indeed, I was one who thought, in those years, that I would rather tie everything to the age of 18, which included raising the driving age, unless a proper driving course was taken, and which would deal with everything as an age of majority in all aspects. I still feel the age of majority set at the age of 18 for everything is the better package. I am persuaded it has to be looked at, at least as we attempt to deal with this whole burden of increasing motor vehicle accidents

and death, which involve teenagers and which involve, of course, the use of alcohol and other stimulants.

There is a theme I would also like the Attorney General to consider in his response to my comments, and that is with respect to the legal aid system. I referred in my initial remarks to what he had said last time as he dealt with the themes of legal aid. Certainly that is an important concept as we look at the budgeting and the planning for the ongoing provision of legal aid services within Ontario.

The system of legal aid and the comments with respect to community legal aid clinics were high priorities in the Attorney General's comments last year. But we are, unfortunately, aware of the release made just last week, on June 9, by the Social Planning Council of Metropolitan Toronto on its views of the difficulties facing the legal aid system now. I believe it important to place on the record just the four brief paragraphs of that press release.

These are the social planning council views on this subject, and I quote:

"The Ontario legal aid plan has been undermined by financial eligibility criteria so restrictive that the concept of guaranteeing rights to legal services has changed into one of providing charity to the destitute. This is one of the major conclusions contained in a report on legal aid in Ontario released today by the Social Planning Council of Metropolitan Toronto.

"The eligibility criteria are so stringent that many households living below the poverty line have incomes considerably higher than the maximum allowable limits for legal aid assistance, the council notes. In some instances, people of very modest means can be denied legal aid altogether.

"The report also states that compensation to lawyers doing legal aid work has fallen seriously behind inflation. While revisions to the fee structure have provided base increases totalling 58 per cent, living costs during the same period have gone up three times that amount. The under-compensated lawyers participating in the plan also contribute 25 per cent of the cost of all accounts submitted. This represents a gross inequity which must be addressed immediately, the council states.

"The report contains additional material which makes interprovincial comparisons between Ontario and the rest of Canada and concludes that this province's relative position has deteriorated in recent years. Finally, the report makes some observations on the situation in York

county and concludes that there has been an actual discouragement of legal aid applications in the Toronto area in recent years."

As I know the particular matters with respect to legal aid are dealt with directly under the second vote in this ministry, since that is the major item in that vote the Attorney General might wish to bring his comments particularly before us on this whole theme of legal aid, and his response to the criticisms raised in the social planning council press release at that time. But whether he does so in reply to my comments or under that vote, I shall leave entirely to his discretion.

They are certainly themes which have to be addressed. I am aware of the concerns which we all have with respect to the provision of financial resources in these areas and the ability of our society to attempt to provide these services as broadly as we can. But it is a theme that I believe should be particularly considered, and I look forward to the Attorney General's comments.

There is another aspect I would bring to his attention to which he might respond in his remarks, and that is with respect to the backlog of cases before the courts. It is my understanding that, not only through the recent press comments referring to crowded courts, but mentioning again the remarks made by the senior judges in our courts at the time of the annual opening ceremonies for the courts in January, this remains a particular concern.

I understand that we now may have legislation requiring procedures to be under way within six months of charges having been laid. I do not know the details of that approach, but I understand that yesterday Mr. MacGuigan, the federal Minister of Justice, made certain comments in that regard.

There are themes which have to be addressed. I recognize that courtroom construction and the provision of additional facilities is an expensive commitment, yet it would appear that the old axiom of justice delayed being justice denied is something which should come to the forefront of whatever we do in this Legislature.

Let me raise with you just one particular complaint which was brought to the attention of our research office by a Toronto lawyer. He wrote as follows on February 23:

"Today I experienced a situation with the court system which should be brought forcefully to the government's attention. Today, and for the entire week of February 21 to 25, no judge of the Supreme Court of Ontario was available to deal with problems ordinarily deter-

mined by the family law division of the court in Toronto except for perhaps the most dire emergencies.

"I made several efforts to find a judge who would hear the matter with which I was concerned, but without success. I commenced by attending at the courtroom in downtown Toronto where such matters are usually heard, only to find a notice on a table stating that no cases would be heard February 21 to 25.

"I then spoke with Mr. Carl Naumoff, who is in charge of the family law division office. I have always found Mr. Naumoff to be as helpful as possible, but on this occasion he could only refer me to Mr. Richard Peterson, registrar of the Supreme Court of Ontario.

"I went to Mr. Peterson's office but was told by a secretary that he would be away for two days until February 25. She suggested that I speak to Mr. Dunlop of judges' administration. However, I was informed by the receptionist that Mr. Dunlop was not concerned with this type of problem but rather, with the administration of the 'physical plant.'

"I was referred to Mr. A. E. Chapman, deputy local registrar. Prior to speaking with Mr. Chapman, I asked to speak to Mr. M. E. Elliott, the local registrar, but I was advised by his secretary that he had retired in December 1982. Mr. Chapman informed me that there were no family division judges sitting and that the duty judge was swamped with work and would not hear my motion.

"The end result is that my client was unable to get a hearing when required, despite the fact that the matter was on consent and required literally only two or three minutes of the judge's time. However, the important fact in this matter is that it is not just one citizen of Ontario who experienced this problem but rather that no resident of Metropolitan Toronto who requires legal relief in a matrimonial matter can obtain such relief for an entire week.

"The significance of this problem, in my opinion, is that when people do not have fast access to the courts they lose respect for the law. This loss of respect then leads to people taking the law into their own hands.

"While I appreciate the many problems which presently exist in our society, a complete closing down of the court for one week and a complete lack of any mechanism to enable a citizen to obtain legal relief is a serious matter and should not be ignored. I believe this problem is of great

importance and I would appreciate discussing it further with you."

12:20 p.m.

That is just one theme brought out quite clearly and succinctly by a lawyer who was faced with difficulties that the Attorney General is well aware of. Another theme I believe the Attorney General should address in the overview of his ministry is the matter of using the notes made by various police authorities in trials. I refer particularly to the themes raised in the hearings with respect to the Tillsonburg police situation, in what particularly has become known as the "Broadway incident." I know the Attorney General is aware of the use of materials by police officers in that particular hearing and apparently that certain officers admitted under oath that they had lied at an earlier trial.

The difficulty when any of us uses records of notes we have made is to ensure that they reflect as accurately as possible the events that may have gone on. I do not keep a diary, certainly nothing in the way Mackenzie King might have. Perhaps my colleague the member for Renfrew North (Mr. Conway) does that sort of thing. It would not surprise me in the slightest if he did. In any event, other than almost religiously burning my Daytimer at the end of each year, I do not pretend to keep particularly accurate notes of exactly what went on at a certain time or date.

But, of course, police members and officers have this obligation, and we must ensure that any of the material that is called back in reference at some later time is as accurate as is humanly possible. To have admissions made that inaccuracies were clearly there, and are almost acceptable, is something with which the Attorney General must be concerned, not only in matters of administration of justice but also with respect to the disciplining of the police force, which is the responsibility, more particularly, of the Solicitor General (Mr. G. W. Taylor).

Another matter I believe we have to consider is the whole theme of compensation for victims of crime and also for persons acquitted of criminal offences. I read with interest in a recent issue of the Advocate the report of an interview with the Attorney General that was headlined and made most prominent on his general concepts and interests in the whole subject of victim compensation. That is a theme which, a year after our last estimates, has achieved continuing prominence.

Looking at my simple filing system on justice

compensation, the two cases of Susan Nelles and Donald Marshall have stirred public interest in this area. It has a somewhat higher priority than it did over past years. We are reminded of some changes in legislation in the United Kingdom which now allow a certain pattern that may or may not be applicable in Ontario.

I would appreciate hearing the Attorney General's views on the progress that has been made in discussing this general theme of justice compensation. We have in place, of course, the Criminal Injuries Compensation Board, which has gone a long way towards dealing with a variety of complaints and lawsuits, particularly as caused by physical attack and personal injury that our citizens have suffered as a result of criminal activities. That has been a progressive step forward. Now we seem to be moving on to the next theme of compensation, which is something that must interest us all.

I commented earlier on the whole matter of class actions. That is one subject which not only raises its head as far as the discussions of the anti-Semitic matters I had discussed earlier are concerned, but also in consumer legislation otherwise. I suggest to the Attorney General it would be of great interest to the committee to receive some status report on the class action theme. I look forward to having you bring us up to date on that particular subject.

In the matter of pornography and censorship, I am certainly pleased you have taken some six pages of your remarks today to deal with ongoing concerns in that area. We are, of course, all reminded of the background of the commission on violence which the late Honourable Judy LaMarsh had been chairman of some years ago. We are reminded of the conclusions which showed that much of the responsibility in this area is that of the federal government. Ontario or other provinces can in some aspects act on their own, but more likely will have to reinforce a standard national theme across the country.

Certainly the comments my leader has made in seeking a select committee to deal with this whole subject of pornography, particularly as it affects children, is an area that has been well received by the media and many citizens across the province.

I am pleased the Attorney General has developed this theme in particular in his remarks this morning. It is encouraging and heartening that some consideration has been given to the prospect of a select committee on this subject. Whether we will see that in due course I do not

know, but it is something in which many members of the Legislature are now interested.

I mentioned not only under the drinking driver theme but also under the anti-Semitic theme the idea that some of these subjects come and go over the years and the cycle now, not only in those two but also in this whole matter of pornography, is much higher in profile for a variety of perhaps unfortunate reasons than it has otherwise been in recent years.

One of the areas the Attorney General has given some stress to in his remarks is the whole theme of child abduction, children's rights and other access and custody circumstances. I was one of those, along with the member for Riverdale and the former member for St. George, Mrs. Margaret Campbell, who was most interested in amendments to the Children's Law Reform Act and the circumstances dealing with abduction. To see the progress which has now developed as a result, the encouragement for which came from Ontario's adoption of the Hague convention provisions, is encouraging to all of us.

There are other themes with respect to children's rights. One of those areas deals with the matter of ascertaining the identities of adopted children under the Child Welfare Act. I know this has been of concern to the Attorney General. It is a difficult area where it is important to balance what are considered the rights and responsibilities of a variety of persons involved.

It is not only the right of the child to know the roots of the natural parents, at least from that child's point of view. There are the rights of the natural parents who may wish, having developed a new lifestyle and having as a result of remarriage put that event behind them, to certain privacy and protection of their own. There are also the rights of the adoptive parents who now wish and hope to make that child their own in every sense of the word. So it is not just the children; indeed persons who might now be as old as I am, if not older, people in their 40s, who want to have rights and those rights therefore are not only the rights of the children who were involved.

12:30 p.m.

It is a balance to strike; it is a very difficult one, and I would appreciate hearing from the Attorney General what thoughts he may have with regard to changes in either law or procedures that are going to remind us all of the variety of interests that we hope should be protected under that theme.

Another recent issue, of course, is the matter of the giving of oaths to children and the

acceptance of those oaths by the courts. We are familiar with the recent London example whereby a judge felt it not possible to accept the uncorroborated evidence of a child in the matter of a sexual assault case. That judge chose to attempt to ask, as I recall, certain questions and bring forward certain themes in order to underlie the ability he might have to rely on the evidence of that child.

In a society that is changing from the traditional Sunday observance or the religious background of many young people in our society it is probably no longer sufficient to base the ability to tell right from wrong or the understanding of the importance of telling the truth only on what might or might not be an overt religious practice or background that the child may have. It is a very difficult thing on which a judge has to be very careful in a decision. I would appreciate hearing from the Attorney General whether changes are contemplated and how he sees the resolution of this concern so that once again justice is seen to be done.

Obviously, taking the uncorroborated evidence of any witness on any criminal matter is something with which the courts must deal very carefully. I do not for the moment suggest that just because a child makes certain allegations they necessarily are true; of course not. The difficulty deals, though, very often with family members being involved, particularly in the sexual abuse circumstances, and the absence of corroboration. It is a very thorny problem. If the Attorney General can provide the committee with some comments as to how he sees progress in this area, I am sure we will all be most appreciative of those suggestions.

There is another theme to which I might briefly refer, and that is one that has now been referred to the Ontario Law Reform Commission. It is the matter and area of surrogate parenting, of gene splicing, of what has been referred to rather crudely as the rent-a-womb concept within society. I am wondering what expectation we have for reports from the law reform commission on that subject.

Certainly the whole beginnings of biological life, the matters of changes in our abortion laws and the differing attitudes on the cases that are before the courts now are themes that must concern us all; and I would appreciate being brought up to date on those areas, because clearly the societal views of these subjects, which seemed to be—certainly in my youth—rather black-and-white, yes-or-no circumstances,

are being shaded in various ways by changing attitudes within our society.

The Attorney General in his remarks last year, which I referred to in my opening comments, did suggest to us that there were concerns about the appreciation within our society of the traditional values and beliefs in the law and the rule of law, that there were challenges which our society must meet, and I certainly agree with that.

I will not repeat the earlier quotation that I gave, other than to repeat that line of his, which was: "It is the rule of law which separates freedom from enslavement, democracy from tyranny."

That whole concept with respect to the rule of law must concern every one of us in this room, whether we be legislators, persons involved in the media, members of the public service or ordinary citizens concerned with the future of our society.

I think it is important to ensure that any of this cynicism towards the administration of the law is dispelled as quickly and as thoroughly as we can, not only in our activities within the Legislature but also as citizens of Canada and residents of Ontario.

There was a Justice policy paper last year which, on being presented to a conference organized politically by the Premier, did refer to the themes of concern with respect to loss of faith in the justice system. Some of that loss of faith can be dealt with not only by speedier trials and by the provision of more services but also through the educational system which can be developed by the Ministry of the Attorney General.

The Provincial Secretariat for Justice has begun some programs that deal with further education themes, and I am pleased to see, presented by the Attorney General today, his booklet entitled, "Justice in Either Language." That summary of the activities of the courts and of the variety of tribunals and the basic background information, which will be of help to many of our citizens, both in English and in français, are going to cause this pamphlet to be in great demand, I believe.

I hope it gets the widest possible distribution. I would be very pleased if the Ministry of the Attorney General were able to provide a copy of that to every child in grade 7 or 8 or certainly as widely as possible, because the administration of justice is the major underlying requirement that will provide us with a civilized society. We can talk about the provision of more roads,

we no doubt require more parks within Ontario and a variety of other things that deal with the quality of life; however, the underlying theme in the quality of life in this province, at least for me, is how justice is seen to be administered.

Mr. Chairman, with those remarks, I thank the Attorney General for his interest in the points I have raised. I look forward to having him share with us a variety of comments on these particular concerns that I have brought before the committee this morning.

Mr. Renwick: Mr. Chairman, you will be pleased to know that I do not intend to make an extended statement. I have given a reasonable amount of thought to the way in which these statements by the minister and then the critics' responses, when coupled with the responses to the responses, tend to eat up the greater part of the time available in the estimates.

I do not intend to repeat my interest in the numerous important issues the member for Kitchener has raised. Mr. Breithaupt has set out a number of matters in which I have an interest, and simply because I do not comment on them does not mean that I do not share his interest. I want to avoid both repetition and a lengthy statement.

I make the same comment with respect to the matters that are in the opening statement of the Attorney General, and I particularly note his request that we indicate the areas we are going to be interested in as we go through. I hope, because of the fact that Mr. Breithaupt is very good at it, and with the assistance of the Attorney General and anyone else, that we will try to distribute our interest through to the appropriate votes rather than spend it all on these opening statements and responses to them and an undue amount of time on the first vote, often at the expense of getting along to the other votes and distributing our topics properly.

12:40 p.m.

The points I want to make are only for the purpose of indicating the ambit of my concern. There will be a minor degree of overlapping simply because I want to make a point about the kinds of areas that are of concern to me.

We have approximately 11 hours left in estimates. There were 13 hours allocated and we have used up about two now. I would appreciate a comment from the Attorney General with respect to the intentions of the government as announced by the Premier for the inclusion of property rights in a resolution, and perhaps a brief discussion about the thinking

behind that proposal. The resolution has not yet come forward.

In the second area related to the Constitution, I would ask the Attorney General to speak somewhat about where he now sees the discussions on native rights going in the constitutional sense. I know we have the resolution before us to establish the process, but I would like some sense from the Attorney General, as a participant in that conference, of how he sees the development of it so that we in this committee can get some feeling about the vitality of that process.

I may say, in the area of native rights, that a year or so ago I put on the order paper a request for a list of all the issues outstanding between the native peoples and each ministry of the government, and some 40 topics were listed. Thanks to the assistance I have had from my legislative intern, Tim Murphy, I now have some kind of organization to it. I have written to each of the ministries in the appropriate area, and I would like to be in the position to ask the Attorney General the status of certain outstanding matters related to native peoples in Ontario on which we have had communications recently as I have tried to bring my files into some kind of order.

Particularly, I would like a concise statement with respect to the lands of the Teme-Augama Anishnabai band.

Hon. Mr. McMurtry: The Bear Island bands?

Mr. Renwick: Yes, the Bear Island bands.

I raise the issue of pornography because your remarks have been directed entirely to the federal question of the Criminal Code. I would like to have some opportunity for a brief discussion about the interrelationship between what is done at the federal level and what can, needs or should be done in Ontario with respect to an act that is not under your jurisdiction—but I want to have an opportunity to speak with you about it—that is, the amendment of the Theatres Act, because of the constitutional question that was raised.

Second, the question that is of concern to a number of people is the whole videotape distribution problem in Ontario and how we can relate that to whatever improvements are made in the appropriate definitions in the Criminal Code. I would like an opportunity to discuss that in some reasonable depth also because of a concern I have that it now appears to be dispersed among yourself and your colleagues the Solicitor General, the Minister responsible for Women's Issues (Mr. Welch) and the Minis-

ter of Consumer and Commercial Relations (Mr. Elgie). I think we have to get some focus on it because there are very real Ontario things that have to be done in relation to that problem.

My colleague the member for Welland-Thorold (Mr. Swart) specifically asked me the other day whether you had any intention of extending the concept of the police complaints commissioner to other areas of the province. My colleague the member for Algoma (Mr. Wildman) specifically asked me about the jurisdiction of the small claims court in that area. When we discussed the provincial court, civil division, he asked me whether you had any intention of extending that concept to other parts of the province.

I would also like a comment from you on the lie detector bill that is before the assembly. I was somewhat concerned to see that while we are outlawing the lie detector for some purposes, there still seems to be an area where it will be used within the administration of justice. I find it difficult to conceive that it should be ruled out in the terms in which the Minister of Labour (Mr. Ramsay) ruled it out yesterday and then to find that somewhere, either within the police system or within the broad administration of justice, it would still be used or would still have some validity. I am quite concerned to resolve what appears to me to be a contradiction.

You will also note on the order paper that I put an inquiry to the ministry about a person by the name of—I do not have the order paper with me, but I believe his name is Richard Crowder. He has been in Metropolitan Toronto East Detention Centre for two years; I think this week is his second anniversary. I do not pretend to know all the background of it, but I believe there was a significant period of time during which he was detained in Metro East before he even came to trial. I do not pretend to know, but I would appreciate it if you would make the inquiry so that during these estimates I could find out why he has been there for such a length of time with his case not being disposed of.

When we come to the area of the Ontario Municipal Board, I have two concerns. One is the protection of the employees of the Land Compensation Board as a result of the amalgamation or cross-appointments between the Land Compensation Board and the Ontario Municipal Board. I am also quite concerned about the statistical backlog of tax appeals before that board.

I would appreciate comments about the Young Offenders Act. I have been trying to get some sense out of the jurisdictional problem within

the government on that question. We have asked the Provincial Secretary for Justice and the Solicitor General what is being done from the point of view of their ministries. I would like to have the same information from your point of view. We do have some information from the Ontario Police Commission and from the opening statements of the courts with respect to what the judges have been doing about that, but I do not have any sense of your ministry's response in relation to the basic philosophy working its way through the facilities as to how you intend to deal with that question.

12:50 p.m.

My colleague has mentioned the Norcen question, and I agree with you that it would be appropriate to deal with it at one specific time.

A concern that came through to me very clearly yesterday when the Attorney General and the Premier unveiled the plaque in the assembly with respect to human rights in the province is that we have had a strange eliding—I believe that would be the correct word—to the point where what was front and centre as a policy of the government and the term that was used continuously by the government, "multiculturalism," now seem to have totally disappeared from the role of the Minister of Citizenship and Culture and have been replaced in terminology by "race relations" and appear to have a relationship mainly with the police and that aspect of race relations.

It was interesting that in the group yesterday those dealing with police matters in race relations were obviously present. I had the sense that the Minister of Citizenship and Culture (Mr. McCaffrey) just happened by and was not himself actively involved in that area. I just have the sense that, for whatever the reasons are, multiculturalism has been put on the back burner and something called race relations has replaced it on the front burner in the whole concept of the kind of society we have. I would like to explore that briefly with the minister at an appropriate time.

I would like at some point to have an explanation as to why we needed an act of the Legislature to put into force the Hague convention provisions and yet at the same time we have never had an act of the Legislature of Ontario in a legislative sense bringing into force in Ontario the international covenants on human rights and other related rights.

I had always simplistically understood that you had to have a legislative enactment, a statute, of the jurisdiction that had the principal

legislative power to bring an international covenant into agreement within that jurisdiction, and yet we are told continually that the international covenants on human rights are part of the law of the province. But we have no statute that says so, and I would guess that it would be blown out of the water if the question of its enforceability in Ontario in so far as the legislative authority of Ontario is concerned ever went to the Supreme Court of Canada.

I would like to try to get that straightened out. If the Attorney General does not do it, I was thinking of perhaps getting a bill prepared and introducing it for that purpose. I find it strange that to give effect to the Hague convention with respect to child abduction we did go the correct route, and yet we have never gone the correct route, in my judgement, on the other international covenants.

I have one other area before I come to the main point and a couple of other comments that I want to make. I have been trying to make some sense of the sentencing in the courts. I thought for once that I was on the trail of something because there was an announcement, I think by Jean Chrétien, that there was something called a handbook of sentencing around or in preparation. I wrote away and I keep getting the response from the judge in New Brunswick who apparently is responsible for preparing this thing that one of these days it will come along.

I do not believe there is any handbook or any information on sentencing of any significance with relation to what the judges have in their minds when they impose sentence with the multitude of concerns they have. I realize as well as anyone that a judge has a responsibility to make an individual sentence in an individual case and not go by some rote. But that aspect of it and the changing fashions with respect to sentencing is a matter that I find extremely interesting. The Court of Appeal has now given its imprimatur of approval to a jail sentence with respect to a certain quality of offences for impaired driving.

Second, as to the question of those unused sections of the code with respect to restitution, we suddenly find it is now fashionable that they be resurrected. By a strange coincidence, I had one judgement within a year or year and a half that you kindly got for me which explained in great detail why restitution could not be awarded. It was considered to be a fashionable, first-class judgement. Within a year, we now find that it is fashionable for these awards to be made, that \$48,000 is to be paid back to so and

so who was defrauded somewhat. I find that the Chief Justice of the High Court has given his imprimatur to that change. Along with the question of sentencing, I would like some discussion about that.

How the fashions of society get through to the judges and how the judges then respond is perhaps a jurisprudential topic that could be dealt with at greater length, perhaps in law schools, but I think we might have an appropriate comment here about what is happening with those changing fashions. Those are the two classic fashion changes which have taken place within almost 12 months in Ontario. I do not understand the process. I think it happens by something more than just osmosis, and I would be curious to have your comment about it.

My major interest in the administration of justice now has come down to this vexed question of the data base in the broad field in the total sense of the administration of justice, from the time the policeman taps one on the shoulder until the time one has served one's probation order at the end of the street. With the information you have given us about the computerizing of the system, I hope at the appropriate vote you could explain what is going to happen there.

Like all of these questions, it has two edges to it, one of which is also closely related to the privacy of the citizen. One of the greatest protections of the privacy of the citizen up to most recent times has been the total disarray of information within the justice system. One could be quite certain that, if one were convicted, within a year or two nobody could find the record of it anyway. But that is rapidly changing.

I was quite surprised at the Don Jail and the Metropolitan Toronto East Detention Centre to find the amount of information about the people detained in those institutions that is available instantaneously on the screen. So there is the privacy aspect as well as the valuable aspect of trying to get a data base for the justice system which will allow intelligent judgements to be made on all aspects of it, not just sentencing but questions of the capacity of the institutions, alternative methods of sentencing, backlog in the courts—all those questions.

I would like a little time spent on that because, again with Tim Murphy's assistance, I have been trying to get some kind of a handle on how that system can or should work.

At the close of my remarks, I wish to welcome your deputy. He was not the deputy when we were doing these estimates a year ago, if my memory serves me rightly—we seem to be

constantly in the Attorney General's estimates—but I do welcome him. He knows I have an immensely high regard for him and for the contribution he made long before he became Deputy Attorney General.

I may say, somewhat in the same vein, that I am waiting with a great deal of interest for the Premier to announce who will be the new Deputy Provincial Secretary for Justice. I have not heard of that announcement, but I await that with interest because I think the justice portfolios then will likely settle down for a little while; they will all have had new deputies, one way or another.

You will be delighted to know, sir, that I had dinner with our former colleague Patrick Lawlor on his return from his around-the-world trip recently. He asked me to extend his best wishes to his ex-colleagues on this committee. I may say that I think that my former colleague Patrick Lawlor would certainly be a valuable addition in some role in the administration of justice in the province. I am making that pitch for him entirely on my own initiative.

Hon. Mr. McMurtry: As a matter of fact, the

Deputy Attorney General and I had lunch with Mr. Lawlor just last week to pursue that.

Mr. Breithaupt: Mr. Chairman, I know the Attorney General will make his response, probably on Friday morning. There is just one other theme that I would ask him to report to us on.

He refers to citizenship requirements and other matters in his remarks, and I am wondering whether in this citizenship requirement he is addressing this hoary old term "British subject" in any way. As you know, it has been one of my pet bugbears, because I think it is one term that should be assigned to the ashcan of history, and as part of our bicentennial, perhaps Canadian citizenship will be the requirement in the future.

Since there are no longer any things called British subjects, is he addressing this particular theme in his legislative review? Perhaps he could report to us in his reply on that matter when he is next before us on Friday.

Hon. Mr. McMurtry: Could you get us a copy of the letter you referred to?

Mr. Breithaupt: Yes.

The committee adjourned at 1 p.m.

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- Conway, S. G. (Renfrew North L)
- Eves, E. L., Chairman (Parry Sound PC)
- Gillies, P. A. (Brantford PC)
- McMurtry, Hon. R. R., Attorney General (Eglinton PC)
- Mitchell, R. C. (Carleton PC)
- Renwick, J. A. (Riverdale NDP)



No. J-7

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice
Estimates, Ministry of the Attorney General

Third Session, 32nd Parliament
Friday, June 17, 1983

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, June 17, 1983

The committee met at 11:41 a.m. in room 151.

ESTIMATES, MINISTRY OF ATTORNEY GENERAL

(continued)

Mr. Chairman: It appears we now have a quorum. Just before the minister starts his reply to the two opposition critics, I believe the committee members were all provided with a copy of a proposed budget yesterday. It was distributed to you. This is merely for your information, to have in case something is referred to the committee, or if the committee does sit for the remainder of the session; not just this summer but next winter as well. We have done it on the basis of a four-week proposal.

Are there any questions about such a proposed budget? Mr. Breithaupt, I see you are smiling.

Mr. Breithaupt: I was just wondering whether you were planning to deal with the reference that is before the committee at some appropriate time and could, therefore, use the several weeks you are planning to review the trust company circumstance in Ontario.

Certainly, that would be open to the committee and I welcome that opportunity.

Mr. Chairman: I was not particularly planning on any specific measures, just normal routine—

Mr. Breithaupt: I did not think you were. I would suggest that there certainly would be an opportunity. Perhaps you could let us know if there are any other items you are anticipating, or is this simply to be in place in case we have the requirement?

Mr. Chairman: The latter is correct. There are no items that I am anticipating that will be before the committee this summer.

Mr. Breithaupt: That is indeed interesting.

Mr. Chairman: Are there are other comments by any committee member?

Mr. Breithaupt moves that the budget be carried.

Motion agreed to.

Mr. Chairman: We are about to commence the minister's reply to the statements of the two

opposition critics. At the end of the day I would like to take a few moments to discuss the committee's schedule for next week.

Hon. Mr. McMurtry: I am sorry, you are talking about the schedule later?

Mr. Chairman: Yes. We would not dream of taking up your time.

Hon. Mr. McMurtry: I think both the opposition critics indicated that they would like to deal with the Norcen matter early on. I think that was their view. I am prepared to deal with it now or later during the appropriate vote.

Mr. Renwick: Would the Attorney General mind dealing with it next Wednesday? We only have an hour now and I think there are a number of matters that we could get out of the way before that time.

Hon. Mr. McMurtry: I think it might be helpful if I were to give a statement now. There will be some comments perhaps on my statement and some questions. It would be helpful if I had some of these, because if I am not able to respond to them today, then we could come back to it next Wednesday. In other words, I am quite content to do that.

Mr. Breithaupt: That is certainly satisfactory to me.

Hon. Mr. McMurtry: If there is time, we can deal with anything else this morning. I think it might be helpful because we may be running out of time on the committee, I am told, and the estimates may have to be adjourned to the fall before they are concluded.

Mr. Breithaupt: Indeed, we may find that next Wednesday is the last opportunity for this committee to meet. That is simply uncertain. I would be quite happy to have the Attorney General's comments.

Mr. Chairman: Is that satisfactory?

Mr. Renwick: I do not know. It depends whether I have my file here.

Hon. Mr. McMurtry: I have copies of my statement that I would like distributed at this point.

Mr. Chairman: I think that would be an appropriate method in which to proceed.

Hon. Mr. McMurtry: This is a statement, I might say, that I was going to give in the Legislature. However, I thought the committee would be a more appropriate forum because it is a better forum for an exchange of views, questions and responses. The statement is as follows:

The Norcen investigation has been completed. The investigating officers, after receiving legal advice from crown counsel, have determined that they will not lay criminal charges against Norcen or any officer or director of that company.

In the normal course, the Attorney General does not make a statement in the House or elsewhere about such matters, particularly when no charges are laid. In this case, due to the very high interest of media and other comment on the investigation and the matters that gave rise to it, I feel it is appropriate that I advise this committee not only of the result of the investigation, but also in a general way of the reasons for the decision in this case.

The matters giving rise to the police investigation in this case developed out of certain activities of Norcen Energy Resources Ltd., commencing in the late summer and early fall of 1981, with a corporate program announced by the filing and issuing of a notice of intention, dated October 27, 1981, whereby the company offered to purchase back from its shareholders up to 4.9 per cent of its own issued shares, pursuant to the exempted issuer bid provisions of the Ontario Securities Act.

That document included, inter alia, the following statements:

"7. Material Changes: Norcen has not present plans or proposals for material changes in its affairs, including no plans or proposals to liquidate, sell, lease or exchange all or substantially all of the assets of Norcen, or to amalgamate Norcen with any other body corporate, or to make any other major changes in the business, corporate structure, management or personnel of Norcen.

"8. Certificate: The purchase of common shares of Norcen, in accordance with the purchase program and the contents of this notice of intention and its sending to shareholders, have been authorized by the directors of Norcen. There are no material changes, or plans for material changes, in the affairs of Norcen which have not been generally disclosed."

This program had been initiated after consultation by the company with its inhouse counsel and also with counsel from the firm of Osler,

Hoskin and Harcourt and officials at both the Ontario Securities Commission and the Toronto Stock Exchange.

The share repurchase program was to be in effect for up to one year, but was subject to earlier termination at the company's option. In fact, shares were purchased in the months of November and December 1981 and January 1982. The last shares were purchased back by the company on February 1, 1982, and the program was terminated by the company at the end of February 1982.

On April 5, 1982, Norcen Energy Resources Ltd. launched a tender offer for 51 per cent of the shares of the Hanna Mining Co. Ltd., a large United States corporation. It was in this context that certain activities of the principals of Norcen Energy Resources Ltd. led the police to initiate an investigation into whether or not the corporation or any of its officers, directors or agents had breached the provisions of the Criminal Code.

As members are aware, there was also an investigation conducted by the Ontario Securities Commission into certain of the same matters to determine whether or not any of the relevant provisions of the Securities Act had been breached. This investigation commenced as a result of a complaint made by Canadian counsel for the Hanna Mining Co. Ltd. to the commission on or about April 13, 1982. This complaint related to the conduct of certain officers of Norcen Energy Resources Ltd., leading up to the takeover bid of April 5, 1982.

The police investigation commenced shortly after the receipt of the aforesaid complaint to the commission, and the police investigation continued on throughout the balance of 1982 and into 1983. It did not end with the expiry of the limitation period under the Securities Act on April 12, but continued on since that time, until only a short time ago.

While during much of the investigation the investigators from the commission worked closely with the police, the focus of the two investigations was substantially different. In the end result, the crown law officers assisting the police concluded that, in their opinion, in the circumstances that were disclosed by the investigation, their primary concern related to the following:

11:50 a.m.

First, did the corporation or any of its officers, directors or agents make, circulate or publish a written statement known to them to be false in a material particular, with intent to deceive or defraud any members or shareholders.

ers of Norcen, contrary to section 358 of the Criminal Code?

Second, did the corporation or any of its officers, directors or agents defraud or conspire to defraud any persons, including any minority shareholders of Norcen, by deceit, falsehood or other fraudulent means, contrary to section 338 of the Criminal Code?

Within both of these two offences, and as an essential element of each, is the requirement that the necessary intent be provable beyond a reasonable doubt.

The investigating officers have, with crown counsel, exhaustively reviewed the results of the criminal investigation, including every available piece of documentary evidence that came into existence in reference to the events referred to above. Members of the board and of the executive committee thereof were interviewed and, in some instances, persons were re-interviewed by the police on the basis of freshly received information.

The investigating officers also sought the assistance of experts in corporate finance and reviewed computer printouts of the market activity of Norcen shares for the 12-month period involved. They reviewed transcripts of the proceedings in the United States court in the civil action that arose out of the takeover bid. They also reviewed the history of Conrad Black's involvement in, inter alia, Norcen Energy Resources Ltd.

I wish to state that the crown law officers assisting the police have stressed to me the very high degree of consultation and co-operation that existed between the police and the crown law officers during the investigation. They feel that the two police officers involved, Sergeants Robert Greig and Robert Barbour, conducted a most thorough and able investigation with a very high degree of professionalism.

Those investigating officers have accepted the legal advice of crown counsel that, upon a thorough review of all the available evidence, there is not sufficient evidence to warrant the institution of any criminal proceedings.

It has become a widely known fact that crown law officers were apprised, only days before the expiration of the limitation period under the Securities Act, that the Ontario Securities Commission had decided to take no action against either Norcen Energy Resources Ltd. or any of its officers, directors or agents, notwithstanding the fact that strong recommendations to this effect had been made by the commission's own investigative staff.

It has also become a well-known fact that, as a result, counsel from the crown law office criminal met with members of the Ontario Securities Commission on April 9 and again on April 12 of this year in an attempt to ascertain the basis of the commission's decision and to attempt to persuade the commission to recommend that the minister give his consent to the institution of proceedings under the Securities Act, either by the commission itself or by an officer of the Metropolitan Toronto police fraud squad who had been conducting the criminal investigation. The commission did not so recommend to the minister.

This effort by the crown law officers to have proceedings instituted under the Securities Act was based upon their belief that sufficient grounds existed to warrant the institution of such proceedings. That remains their view. A very long and in-depth review of all the evidence that has been brought to their attention has led the same crown law officers to provide the legal opinion to the investigating officers, in response to a police request for such an opinion, that they do not have, in law, a sufficient evidentiary base to warrant criminal prosecution in this case.

Without in any way attempting to provide an exhaustive review of their reasons, a major consideration with respect to a possible charge under section 338 of the Criminal Code is the failure of the evidence to disclose a sufficient basis for alleging that the persons aforesaid intended to defraud those shareholders of Norcen Energy Resources Ltd. who did, in fact, sell shares back to the corporation during the months of November 1981 through to February 1, 1982.

Without in any way suggesting that the notice of intention either (a) was not initially misleading, or (b) did not become misleading in light of subsequent events, it is their view that it is not provable that it was the intention of the persons aforesaid to financially prejudice those shareholders through statements known to be dishonest in relation to any plan or proposal referable to the Hanna Mining Co. Ltd.

Simply as an aside at this time, Mr. Chairman, I am advised that not a single shareholder who has sold his shares has made a complaint in this respect.

This affirmative requirement of proof of an intention to defraud, under section 338 of the Criminal Code, is not a requirement under the charges under the Securities Act earlier proposed by crown counsel. Similarly, in relation to a possible charge under section 358 of the

Criminal Code, a major factor in arriving at the legal conclusion by the crown law officers is a failure in the evidence to establish a provable case with respect to the requirement that the statement allegedly false in a material particular must have been made, circulated or published with the intention of defrauding or deceiving the shareholders of the company.

I would emphasize that there is a fundamental difference between a criminal offence and a regulatory offence created by provincial statute. Although different provincial regulatory offences involve varying degrees of liability, they are still very different from criminal offences in terms of the required elements of proof.

In the Sault Ste. Marie case, for example, reported in 1978, in 2 Supreme Court Reports, on page 1299, the Supreme Court of Canada reiterated the requirement that in criminal cases some positive state of mind, such as an intention to defraud in this case, must be proved by the prosecution.

In the case of section 358, without in any way suggesting that it is the view of the crown law officers that the notice of intention was not false in a material particular or did not become so, it is their view that there is not the required evidence that the notice of intention was made or circulated with intention to deceive or defraud. I should stress that these, as well, are in no way requirements of a proof in a charge under section 118 of the Securities Act.

It is unfortunate that the investigation was attended by such intense media and public comment. Such comment only served to make a difficult task more so, and in no way whatsoever advanced the interests of the investigation. I also find it distressing and somewhat surprising that much of the public attention to the investigation was generated directly by those very persons whose conduct was the subject of the investigation.

The importance of thorough police investigation is not only apparent when the results thereof are the commencement of criminal proceedings. In some cases, including the present, the fact of a thorough criminal investigation and the provision of legal assistance throughout by crown law officers should lead to public confidence in the administration of justice in this province.

In particular, it demonstrates that no one, regardless of his position in society, is above the law and that where appropriate reasons therefore exist, his activities will be scrutinized with

great care by the law enforcement officers of this province.

It is important that the public be assured that in any case where the circumstances warrant it no amount of criticism from whatever source will dissuade law enforcement officers in this province from carrying out a thorough and careful criminal investigation.

12 noon

Mr. Chairman, that is the statement with respect to Norcen. I can, at this time, turn to a number of the other issues which were raised by the opposition critics or, if they would like to deal with Norcen at this time, at least in part, you may wish to do that as well.

Mr. Renwick: As I stated, I would prefer to deal with this next Wednesday, but I have one or two questions relating to clarification of the statement which the Attorney General has put before us.

Are your crown law officers saying that, in their opinion, the notice of intention—commonly known as the issue or bid circular—was initially misleading and that it did become misleading in the light of subsequent events?

Hon. Mr. McMurtry: Yes. It is in the statement on page 9, and I think the precise words are important. In effect, what they are stating is that there is evidence that the notice was either initially misleading or that it did become misleading in light of subsequent events. They are stating that they are not suggesting, and they prefer to phrase it in the double negative. It is their terminology, not mine, and I think it is important.

Mr. Renwick: I take it that it is the opinion of the crown law officers that the notice of intention, the issue or bid circular, was initially misleading and did become misleading as well, in the light of subsequent events.

Hon. Mr. McMurtry: They are of the view that there is available evidence to that effect.

Mr. Renwick: There is another item of clarification that comes to my attention. In the second complete paragraph on page 4, you have emphasized that the investigators from the commission worked closely with the police. The focus of the two investigations was substantially different.

Again, on page 7, it was only days before the expiration of the limitation period that your crown law officers were aware of what action the commission was going to take in the matter.

My question is not with respect to the commission, and so on. How could there have been

such a separation between your crown law officers and the investigating police officers, on the one hand, and the commission investigators on the other hand, that it was left until the very last minute, the last minute being the two, three or four days immediately preceding the termination of the limitation period on April 12? How did it come about?

Hon. Mr. McMurtry: I think you may be confusing, inadvertently or otherwise—

Mr. Renwick: Not otherwise.

Hon. Mr. McMurtry: We are dealing with the members of the securities commission, members of their investigative staff, and, I think, the two solicitors who were advising them. My information is that the police worked closely with both the commission investigators and, I assume, the solicitors advising the commission investigators, in relation to the securities commission investigation as well as the separate investigation.

However, that would not necessarily, in any way, facilitate any information being transmitted with respect to what the decision of the commission was going to be. That is my information. It is one thing to have some continuing interaction with the commission's investigators; however, this interaction did not, of course, extend to members of the commission itself, and not surprisingly so.

Mr. Renwick: That was the distinction I was making. In a strictly nonpartisan sense, I was rather concerned about your "inadvertent or otherwise" reference to me. That is strictly nonpartisan, of course.

I want to try to rephrase that question. Were the investigating officers of the Ontario Securities Commission, at the point in time when they made their submission to the commission, aware of the opinion of your crown law officers with respect to the misleading nature of the issue or bid circular, and with respect to the opinion of your crown law officers that there may well be an evidentiary base for charges under the appropriate section, 118, of the Securities Act?

Hon. Mr. McMurtry: To the best of my knowledge, the commission's investigators would have been aware of that, yes.

Mr. Renwick: They were fully aware of the position of your crown law officers when they made the recommendations to the commission?

Hon. Mr. McMurtry: I really do not know the chronology. As you know, we only received the copy of the report of the Ontario Securities Commission investigators, I think, two or three

days before my crown law officers appeared before members of the commission.

I also want to make a further preliminary observation in relation to this whole matter. During the whole course of this investigation, I certainly had no direct contact whatsoever with respect to the police officers involved or with respect to our own officers who were advising the police in this matter.

I felt it was important, quite frankly, to be totally detached from what was going on from month to month, other than getting preliminary reports through others as to the time frame within which the investigation would take place. That goes without saying.

I found it extremely offensive that anybody would suggest some of the very vicious, mischievous innuendoes that have been spread about, that the subject matter of the investigation was in any way going to be in some preferred position by reason of anybody he might have known in the government. I might say, and I want to make this point very clearly, I retained a total sense of detachment as to what was happening throughout all these months, contrary to some of the suggestions made, or at least the inferences that some people were asked to draw from some of the more irresponsible reporting on this matter.

I cannot be precise, of course, with respect to the chronology of this matter. Although the Deputy Attorney General only became involved in this matter when he rejoined the ministry on January 1 of this year, he may be more thoroughly apprised of some of the facts or dates than I am. I would invite him to interject if he can assist us with respect to any of these matters.

12:10 p.m.

Mr. Renwick: I suppose there is one matter of concern to me arising immediately out of your statement. I had the opportunity to review what I believe to be the complete report of the investigative staff of the commission in what I consider the illegal process of the commission. The commission deigns to talk about what I refer to as "illegal" as the informal procedure of the commission.

There is absolutely no reference in the report of the commission's investigative officer to the opinion of the crown law officers with respect to the Criminal Code offences, which would also be part of the responsibility of the commission up to the expiration of limitation date. Also, there was no reference with respect to the opinion of the crown law officers on the misleading nature of the circular, or the fact that

your crown law officers believed there to be an evidentiary base for the charges.

The result appears to have been that the commission made its decision, that your crown law officers intervened, and that the commission reaffirmed its decision.

Hon. Mr. McMurtry: We received a copy of the report on Friday, that weekend. I know that senior members in the ministry worked on it over the weekend.

I wrote a letter to the Minister of Consumer and Commercial Relations (Mr. Elgie), which was delivered on the Tuesday following the Friday, indicating that my law officers were of the view that there was an evidentiary base for proceedings under section 118 and requesting, as you will recall, the commission to reconsider the matter.

I believe that Mr. Harry Black had already directly communicated his views, at least, to certain members of the commission several days earlier. I do not know how many were present at their meeting. Was it on the weekend?

Mr. Renwick: I do not want to interrupt the deputy on it. Those are the comments I wanted to make about that. There are certain chronological questions, both with respect to the circumstances around the one and only meeting of Mr. Conrad Black and Mr. Huycke with you, sir.

Hon. Mr. McMurtry: And Mr. Rendall Dick and Mr. Blenus Wright.

Mr. Renwick: Yes, with Rendall Dick and with Mr. Blenus Wright. There are certain chronological concerns that I have about the period immediately leading up to the expiration of limitation period that I would like to raise with you at the appropriate time next week.

Hon. Mr. McMurtry: We are talking about an 11-month period.

Mr. Renwick: No, it just took place—

Hon. Mr. McMurtry: The meeting of Mr. Black and his solicitors with the deputy attorney general and the director of the civil law branch took place almost a year before the expiry of the time period under the Securities Act.

As I say, and I again repeat, it took place at a time when nobody in the ministry was aware of any criminal investigation, with the exception of one of the more junior lawyers, Mr. Brian Johnston. No one in the ministry, other than Mr. Johnston, was aware of the fact that some police investigation had been initiated.

I guess it was a matter of several weeks earlier, as a result of a complaint that was received by the commission. The meeting, of

course, related to an allegation that there was some improper interference by my ministry in the law suit in the Cleveland court, a serious and very unusual allegation.

Mr. Renwick: As I say, I am interested in the particular chronology around the flurry of activity which took place immediately following the meeting of Mr. Black and Mr. Huycke with you, Mr. Dick and Mr. Blenus Wright, that capsule of time and the capsule of time immediately preceding the end of the limitation period. I am not interested in reviewing all of the intervening part.

Hon. Mr. McMurtry: I know that the Deputy Attorney General has some information. I was not directly involved in any of this flurry of activity, if that is what it was.

Mr. Renwick: I would like to have a little bit of time next week to ask some questions on it.

Mr. Breithaupt: Perhaps it would be useful if Mr. Campbell brought forward any further information he has at this time, so that we all have keys which will lead to questions when we have the opportunity to speak on Monday.

Mr. Campbell: I could certainly give you a very rough chronology now, subject to checking the actual details of it. I think that the decision of the Ontario Securities Commission was made on the Thursday preceding the weekend that preceded April 12, the date on which the limitation period expired.

I think we first got a copy of the report of the OSC investigators on the Friday morning preceding the weekend. During the Friday Harry Black, the crown attorney and deputy director of the crown law office (criminal) charged with the responsibility for that particular prosecution, consulted with me a number of times.

As a result of that, I think I initially called the vice-chairman on Friday afternoon. However, certainly at some point during the afternoon when I was with Harry Black, I spoke to the chairman of the Ontario Securities Commission. Basically, I wanted to get some background on what factors had made them reach the decision they had reached the previous day, not to seek the minister's consent to a prosecution, mainly under section 118 of the Securities Act.

The chairman and I had a brief conversation. As a result of that, he convened a meeting of some members of the commission and some commission staff on the Saturday morning. I am not sure exactly who was there. Harry Black attended that meeting with, I think, one of the

investigating officers. I am not sure if there was another crown law officer with him at that time.

He discussed and reviewed the matter with them and went over a number of questions as to how they had reached their decision, what factors went into it. I can review my notes as to what else took place or ask Harry Black to review his notes.

On the Monday I spent a good deal of time with Harry Black, with John Takach, the deputy director of criminal law, and with two other crown law officers who were very experienced in relation to the prosecution of commercial fraud and commercial crime matters. We met a number of times on the Monday. I could check whether or not there was any communication between us and the commission on that date. There may have been one about details. I am not sure.

The next day, Tuesday, was the day the limitation period expired. There is a letter from the Attorney General to Dr. Elgie, the Minister of Consumer and Commercial Relations, setting out what the views of the crown law officers were at that point. We had, of course, been reviewing the investigation report over the weekend. The four or five of us spent a good deal of time on the Monday reviewing it together and the conclusions we reached were reflected in the Attorney General's letter of April 12 to Dr. Elgie.

As a result of that letter, a special meeting of the Ontario Securities Commission was convened on the Tuesday afternoon. Harry Black attended, as well as, I think, David Doherty from the crown law office (criminal), who was one of the crown law officers involved in the discussions on the Monday as to what the crown law officers said about the recommendation of the securities commission investigators with regard to potential changes under the Securities Act.

12:20 p.m.

Harry Black had some discussions with the securities commission that afternoon and later on that evening. I have forgotten exactly what time it was; it was getting into the evening. Harry Black and I learned that the securities commission had decided to maintain its previous position. It would not seek the consent of its minister, which is required under section 118, or a similar section.

That is the rough chronology. If there is any particular aspect of it you would like to know more about, I could check into it. As I said, I do not have any notebooks here, but I can check

into any particular aspect you might want to know about.

Mr. Chairman: Thank you, Mr. Campbell. Minister, would you like to proceed with the remainder of your report?

Hon. Mr. McMurtry: I don't know whether Mr. Breithaupt wants to interject at this time.

Mr. Breithaupt: At this point I think it would be useful for us to have the opportunity of reviewing this statement and the material Mr. Campbell has provided. If we could have the other comments the Attorney General has on the various points that I and Mr. Renwick have raised, that would be a useful completion of this morning's task.

Hon. Mr. McMurtry: I would be delighted to do that. There is one matter I would like to raise, quite independently of any of the comments that were made, and this has to do with the reason we were not sitting yesterday. This is in view of the fact, Mr. Chairman, that it appears highly unlikely that we are going to conclude the estimates of the Ministry of the Attorney General before the fall.

There was mention of a long-standing commitment of the Chief Justice of the province. However, it is a matter on which I would like to briefly advise my opposition critics because I would like to have their comments at some point in time before the conclusion of the estimates.

The Chief Justice, Mr. Justice William Howland, has been chairing a committee in relation to the administration of justice and the media, particularly in relation to television in the courtrooms. He had recommended and suggested that at the appropriate time we visit a nearby jurisdiction where these issues were in the process of a thorough review or had taken place.

Mr. Breithaupt: Yes, I know that there was a report in the press.

Hon. Mr. McMurtry: I did not see any report in the press. As a result, we flew there early yesterday morning—the Chief Justice; Mr. Justice Osler of the High Court of Justice; Judge Patrick Lesage, associate chief judge of the county court; Mr. Ron Thomas, president of the Criminal Lawyers Association; Rendall Dick, representing the Law Society of Upper Canada; the Chief Justice's executive assistant, special systems; the Deputy Attorney General and myself.

We met with the Chief Justice of New York state, the Attorney General of New York and a

number of people in New York City with respect to this matter, which has been the subject of a very lively debate in front of the assembly of the state legislature.

We also spent the afternoon with senior members of the judiciary across the river in Bergen county, New Jersey, where television has been permitted in the courts by reason of state legislation.

I do not intend to review the matter in any detail whatsoever now, other than to say that it is, albeit, clearly an important issue, an issue which in my view raises a number of important issues, a number of important concerns, quite frankly. I would personally be very pleased if the opposition critics and, indeed, members of the committee would reflect on this issue over the summer.

If there is any information you would like from our ministry with respect to the research that has been done—a good deal has been written about it—we would be happy to provide it. I would invite you to make your views known to us, perhaps when we come back in the fall.

Mr. Breithaupt: Further to that, are we then to presume that those worthies who attended yesterday in New York and New Jersey are planning a report or a series of suggestions upon which further consideration is going to be based? Will this visit lead to some seminar or discussion opportunity among the bar and bench and the general public, perhaps in the fall, or however it is to be developed? Just where do you expect that that visit will lead as we move along this path of keeping a very careful balance in this whole area?

Hon. Mr. McMurtry: That is a very good question and one we, the group who were there, discussed. The process is not precise, but there are various constituencies represented. I expect what will happen is that those who were representing the various constituencies will engage in consultation with their particular groups they represent.

In the case of the Criminal Lawyers Association, for example, as you know one prominent criminal lawyer, Mr. Edward Greenspan, has expressed a considerable amount of opposition. I just mention that as an illustration.

Mr. Justice Osler was representing the High Court of Justice and will be discussing with his colleagues. The Chief Justice has been involved more directly than most of us.

Mr. Rendall Dick will probably have some advice to the treasurer and the benchers with

respect to any process it might take in relation to the profession as a whole.

I do not expect any formal report to come as a result of this particular group, which was really brought together in order to, as much as anything else, motivate further careful consideration, to act as a catalyst with respect to the profession and the administration of justice as a whole in the province.

Because a relatively few people have been involved—I could tell you with a little assistance as to who sits on this media committee. I have not participated in any of the meetings, but it is really to encourage a broader involvement of those who have interest in relation to the administration of justice, and it was a very useful day in that respect, but there will not be any formal report coming out as a result of our visit.

Mr. Breithaupt: But it does at least then bring each of these individuals, shall we say, to a common start line of what is new and involved, and how another jurisdiction is handling the matter. I would have thought that a logical approach might be, perhaps by the fall, to have your ministry seek to co-ordinate the views of the groups which were represented in some symposium or some opportunity that would lead over several days—perhaps in late October or early November, whenever it might be—to see if any positive or negative conclusions come back from the various groups.

12:30 p.m.

If there is an interest in dealing with this theme, then I would think that your ministry—or perhaps of course the Justice secretariat, if that what was wanted—would have an opportunity to take it at least to the next stage.

The next stage, from my view, would be to say to the groups: “Now that your representatives have reported back to you, can we gather and discuss how you see the prospect? Is this something that will happen the following month or the following year; or perhaps never, depending on how various groups relate?”

I think the symposium idea, even if it were early in the new year, however it might be deemed appropriate, would be the opportunity to bring a somewhat more public focus on to this subject, especially since the interest, I think, was clearly there, when the various television programs were shown in that series that brought before the public just what this kind of involvement in the courts might be.

Hon. Mr. McMurtry: Yes, I think the suggestion of a symposium is a good idea. I certainly recognize our responsibility to co-ordinate a good deal of what is happening. The judiciary obviously have a crucial role to play, because they obviously will have a very significant role with respect to what occurs in their courtrooms during any trial. But legislation will be required to permit television in the courtrooms, apart from the limited opportunity there is now under the Judicature Act in relation to matters that are of an educational nature.

In due course, if it is to be broadened, the Attorney General would be introducing legislation, so we do obviously have a clear responsibility.

I think the idea of a symposium is a good idea and we will pursue that thought.

Mr. Breithaupt: If you do not co-ordinate the next phase now, I just cannot see anyone else of the various groups having the cachet, which you clearly have, to encourage and pull together the general views on the theme.

Hon. Mr. McMurtry: I certainly agree.

I have some comments. My colleagues in the ministry have been working very hard to try and get together as much information as possible with respect to the opening comments. I think we are on to the very important issues. I am not dealing with these issues in the same order they were dealt with by my critics. I would like to start with class actions.

Of course, I am not surprised by the critics' interest in class action reform in Ontario. I think you will recall that I tabled a report of the Ontario Law Reform Commission in the Legislature approximately a year ago. This very comprehensive three-volume report was probably the most significant, the most complete and comprehensive report that has ever been prepared in the English-speaking world. I am delighted to recognize that.

We have the very distinguished chairman of the Ontario Law Reform Commission here with us this morning, Dr. Mendes da Costa, also a newly-elected member of the Law Society of Upper Canada. We will be dealing with the law reform commission specifically when we get to that particular vote. I think this class action report is a very good illustration of the dedication and scholarship which the chairman and his colleagues bring to their very important law reform tasks.

I think it is fair to note that the issues are as complex as they are important. Indeed, the law reform commission spent some six years in

formulating its views, which are set out in the 880 pages of its report.

When the report was tabled, I indicated that I was, of course, looking forward to receiving the views and comments of any interested parties. Since that time, the Supreme Court of Canada, in the important case of *Naken versus General Motors*, had stated categorically that effective class action procedure cannot be based on our current rules of practice. It can only come from comprehensive legislative reform. Again, as you know, the *Naken* case has focused public interest on this important question of class actions.

It also goes without saying that, since the law reform commission report was published, my staff have been studying it in some detail. They have received briefs from a number of concerned organizations and interest groups. I, personally, am pleased that I have received a number of letters from concerned individual members of the public.

Just recently the Canadian Bar Association set up a working group on class action reform, together with staff of the Public Interest Advocacy Centre. I also understand that the Advocates' Society is considering the issue. We are still looking forward to receiving the views of other interested groups, as well as these important professional bodies.

At the time the *Naken* case was handed down, I made a number of press statements concerning our plans for class action reform. I personally regard it as a high priority. I would expect to be discussing these issues, at least in a general manner, with my cabinet colleagues in the early autumn, with a view to possibly bringing first reading legislation before the House by the end of the year.

I am sure we can anticipate that any specific proposals we bring forward in such draft legislation will undoubtedly generate a great deal of additional comment and analysis from interested parties.

Before concluding, I would like to talk in general terms about this question of class action reform, because of its overall importance.

The law reform commission made a compelling case that our current rules of civil procedure operated in such a way as to deny substantial numbers of Canadians access to justice. The commission looked at four specific problems, and concluded that our legal system was probably ineffectual to deal with them: the damage claims arising from the Mississauga train derailment of 1979; the plight of those who seem to have had property values slashed because they

installed urea formaldehyde foam installation; the problem of small investors affected by the crash of finance companies like Re-Mor; and the situation of consumers who buy defective goods, such as the rusty Firenzis that led to the litigation recently ended by the Supreme Court of Canada.

Each of these problems presents us with tough choices. Large numbers of people may be affected, but individually their damages may not amount to that much. Certainly, it would be an unjustified expense, generally speaking, for each of these individuals to have to go to court as individuals. Class action procedure, properly designed, could enable them to pool their resources and bring their action together.

The commission believed that an effective class action procedure, designed with appropriate safeguards, could provide a procedural vehicle which could promote economy in our litigation system, provide effective access to justice, and encourage potential defendants to conform more closely to legal standards.

12:40 p.m.

The challenge that must be faced, however, is to build in sufficient safeguards to ensure that the procedure is not abused and that it can operate efficiently.

What are the key areas we are considering as part of our review? One key area concerns what is known as certification, that is the screening of class actions at an early stage to ensure that only appropriate actions proceed.

The law reform commission suggested a number of threshold tests that a judge should apply early on in the action to determine whether it should proceed. We are considering whether all these threshold tests are appropriate, or whether they may, in fact, impose too high a standard for class actions to proceed.

How will the courts handle this responsibility? In particular, is it realistic to expect them to make an assessment of the costs and benefits of class action, as the law reform commission recommended?

The second major and difficult issue is that of costs. The law reform commission believes that, without reform of our costs rules as they apply to class actions, no potential class representative would have any justification whatsoever for launching a class action. At the end of the day, they might be fully liable for costs of their opponent, which might amount to 20 or even 100 times their individual claim.

Should Ontario liberalize the rules governing contingent fees? Is there justification for special

costs rules to apply to class actions which have survived the certification test? Is there a justification for a public fund to be set up to finance class actions, as has been done in Quebec? Is it possible to devise new rules which will not change the traditional role of the lawyer?

All these are questions to which we must be very attentive. In Quebec, the experience of the last four years under their new Class Actions Act has been that if the costs provisions are not properly designed, an effective class action procedure is not possible.

An additional issue of major importance is the question of the rights of class members. An individual may be affected by conduct which becomes the subject of a class action, but yet not wish to participate in the action. Should he be permitted to opt out of the action? Some commentators go so far as to suggest that only those people who affirmatively opt into a class action should be part of the class. Is this reasonable?

Is it necessary or desirable to provide notice of a class action to people who might be affected by it? If so, at what stage? Who should pay?

The fact that there are other interested parties not physically present in court, namely the class members, imposes special responsibilities on all concerned. The judge will have to be vigilant in safeguarding their rights. Counsel for the class must be scrupulous in ensuring that he does not favour the special interests of the representative plaintiffs over those of the class members.

To deal with this problem, the law reform commission recommended that it should be impossible to settle or discontinue a class action without the approval of the court. All these matters impose new and special responsibilities on the trial judge and on counsel.

In particular cases, they may require a judge to be much more active and managerial in the conduct of litigation than has been the case up to now. Is this desirable? Is it avoidable? These are, again, questions which we are considering, and which surely have to be considered.

Do we have to rethink our current rules on damage assessment and distribution to deal with class actions? In a case such as major disaster litigation, how can one calculate, with any accuracy, the total damage sustained by all members of the class? In some consumer fraud cases, it may well be that the defendant's financial records will be the best indicator of what damage has actually been sustained, but is it fair to use those records for that purpose?

How can damages, once awarded, be effectively distributed? Obviously we do not want to burden a trial judge with superintending a major cash payout that may take years, but what alternatives do we have? The American experience is suggestive on this point, but perhaps there are better solutions. Certainly the law reform commission has identified some of them.

Finally, there is a question of what the role of the Attorney General should be in a class action procedure. At times, some class actions may raise questions on which it is important that the court be informed of considerations of the public interest.

Indeed, in New York, as an aside, the Attorney General personally carries major class actions. One which we were made aware of was apparently a very famous action against General Motors in which the Attorney General carried the burden of the litigation.

A class action is not simply an individual action writ large, in other words. It may be qualitatively as well as quantitatively different. Accordingly, the law reform commission recommended that the Attorney General must be notified of all class actions, that he would have the right to intervene in such actions, and even, at times, apply to take over the action from the representative plaintiff.

This recommendation is a major departure from the established way in which civil litigation is conducted in this province. It extends and transforms the traditional role of the Attorney General in protecting the public interest.

I know that some members of the bar have expressed concern about the possibility of this new role. It is obviously, therefore, a question which my colleagues and I will have to consider very carefully.

I think it is important that I take this opportunity to express just a few of the fundamental policy questions surrounding class action reform. They are both difficult and profoundly important. They touch on many matters of crucial importance to our legal system. If that legal system is to provide effective access to justice for people affected by mass wrongs, some sort of class-action procedure will undoubtedly be necessary.

The challenge is to devise a balanced and effective procedure, with sufficient safeguards to protect the interests of the class, the court, the defendant and, of course, the public. The law reform commission's excellent report provides us with an unparalleled opportunity to

develop progressive and effective legislation in Ontario.

Again, I would welcome the comments of members of this committee, of organized groups, or the general public on these important questions.

Mr. Renwick: I just have two questions on that. I take it that you have now come to the conclusion that, yes, you will, when this lengthy process is over, introduce legislation and adopt the principle of class action in Ontario.

Hon. Mr. McMurtry: That is certainly my view at the present time.

Mr. Renwick: Second, what is your position on the related question which is of such importance to public interest groups such as the Canadian Environmental Law Association, Pollution Probe and others on the vexed question of standing matters in which they are concerned?

Hon. Mr. McMurtry: As you know, the law reform commission is working on a report on this very important issue. I am not sure as to when that report will be forthcoming, but we will hear from Environment later.

Mr. Renwick: When we get to that particular vote, I can—

Hon. Mr. McMurtry: As I recall, it was a matter that I referred to some time ago, because of the importance of the issue.

Mr. Breithaupt: I would also like to discuss that.

Hon. Mr. McMurtry: We have given quite a few difficult issues to the law reform commission. We have kept them quite occupied, but I know that they are giving this report on standing high priority. We will have further particulars shortly.

Mr. Breithaupt: That is one theme that I, too, would like to go into, particularly since that topic has been with the law reform commission since 1976. Possibly next Wednesday, if we are able to continue, I would like to look into that aspect of this first vote when we look at the law reform commission portion.

Hon. Mr. McMurtry: Since we are dealing with important matters involving the Ontario Law Reform Commission, one of the issues also raised by Mr. Breithaupt, as I recall, was related to another important project which is being entertained by the commission, namely, human artificial insemination and related matters. I think it might, therefore, be of interest to the committee if I were to give a brief status report with respect to this project as of the present time.

You will recall that on November 5, 1982, I requested the Ontario Law Reform Commission to report on the matter of human artificial insemination and related matters, including surrogate mothers. Having regard to the importance of the topic, the commission placed an announcement containing the terms of reference of the project and inviting submissions in each daily newspaper in the province and in Ontario Reports. In addition, a copy of the announcement was circulated to a wide group of persons and bodies, including religious organizations, hospitals, children's aid societies and certain medical and legal organizations.

Thirty-six briefs submitted to the commission as of June 1983 are now being carefully considered. Professor Bernard Dickens, of the faculty of law, University of Toronto, is acting as the project consultant. Professor Dickens and some members of the commission's legal staff, as well as another lawyer, have been engaged in research respecting topics germane to the project. To date, several background papers have been prepared and submitted to Professor Dickens, while others are still in preparation.

In order to gain practical insights and advice concerning the alternative reform proposals available to the commission, the commission has also appointed an advisory board. The board, to be chaired by the chairman of the law reform commission, is composed of members expert in several professions and disciplines relevant to the project, including law, medicine, social work, philosophy and ethics. In addition, there will be representatives of the general public on the board.

The first meeting of this advisory board, which is expected to review and comment upon

material prepared during the course of the project, is scheduled for Thursday, July 7, at the commission offices in Toronto. The views of the board, as well as the views of those persons who have prepared the research material, will be placed before the commission. The commission will then be in a position to make recommendations for reform. I am advised that the commission has given the matter a high priority and hopes to have its report available by next spring.

Mr. Renwick: Before we conclude, in checking my files I find I do not appear to have a copy of the latest wiretap report, your report under the code. For reasons I do not know, I do not have a copy of the 1981 one either. I assume the 1982 and 1981 reports are available.

Hon. Mr. McMurtry: Yes, we can get them for you. The 1982 report was published about a month ago, I think. We will get copies of both reports for you.

The next item I was going to turn to was hate literature. As I would like to discuss this in a little detail, it might be appropriate to adjourn at this time, Mr. Chairman.

Mr. Chairman: I would totally concur and I see committee members nodding their heads in agreement.

With respect to our next meeting, as Mr. Breithaupt has already indicated, we are somewhat up in the air, so to speak. Unless there is any further notification, we will be adjourned until 10 o'clock next Wednesday morning. We will meet here.

Mr. Renwick: So we will be meeting on Wednesday, Thursday and Friday of next week.

Mr. Chairman: That is correct. That is our intention, provided the House is still sitting.

The committee adjourned at 12:53 p.m.

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Friday, June 17, 1983

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Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice
Estimates, Ministry of the Attorney General

Third Session, 32nd Parliament
Wednesday, October 12, 1983

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

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Vice-Chairman: Mitchell, R. C. (Carleton PC)

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, October 12, 1983

The committee met at 10:12 a.m. in room 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

(continued from June 17, 1983)

Clerk of the Committee: Honourable members, I recognize a quorum to call the meeting to order. I do so because I have in front of me a tear-stained note to the clerk of the committee from Mr. Ernie Eves, MPP, resigning as chairman. It has fallen to me to conduct the election of a new chairman and I therefore request nominations for that office.

Mr. Gillies: Members of the committee, difficult as it will be to replace Mr. Eves, who served this committee so well in these many months, it is my pleasure to nominate a member of the committee of particular talents and peculiar abilities, Mr. Al Kolyn, the member for Lakeshore.

Clerk of the Committee: Mr. Gillies has nominated Mr. Kolyn. Are there any further nominations?

There being no further nominations, I declare Mr. Kolyn elected chairman by acclamation.

Mr. Eves: Just about as easy as my election.

Mr. Gillies: Al won by six votes too.

Mr. Chairman: Thank you, gentlemen, for your confidence in me.

On vote 1401, law officer of the crown program:

Mr. Chairman: We are still on the first vote and the first item. I believe the Attorney General has a few comments on some of the subjects brought up in the last session.

Hon. Mr. McMurtry: Mr. Chairman, may I add my personal congratulations on the hard-fought electoral battle that has brought you to your present position.

I have made a number of comments with respect to the opening statements, attempting to respond to the opening statements of my critics from the two opposition parties. One of the issues that had been discussed was alcohol abuse on the highway. As you know, a month or so ago, we released our staff report on the Premier's (Mr. Davis) interministry task force on drinking and driving, on which I had the

privilege of serving as chairman of the cabinet committee. I think all members have a copy of the report and copies of the statements that were made by the Premier and myself.

I am raising this issue at this time because I would very much welcome any comments and suggestions from members of the committee. This is obviously an issue that has been with us ever since the creation of the automobile. While some people may express a sort of *déjà vu* every time they see yet another government report on alcohol abuse on the highway, I believe the staff have done a very good job in emphasizing the fact that there are no simple solutions or instant fixes and that this issue has to be addressed first and foremost at the community level, quite apart from any ongoing response from the criminal justice system.

Later this fall, we hope to have a working seminar with representatives of most of the municipalities across the province to discuss what initiatives might be taken on a local basis to try to reduce the incidence of this tragedy. The former commissioner of the Ontario Provincial Police, James Erskine, will be co-ordinating this program in the Ministry of the Attorney General. I know from recent discussions with him that he would welcome any suggestions from members of the committee, notwithstanding the fact that he is very experienced and one of our province's most senior and respected police officers. It is an issue with which he has been dealing for many years.

When one looks at the tragic dimensions of this problem, obviously it is a matter that has to be addressed by all thinking citizens. Members of the Legislature obviously have a particularly important role to play, and I hope in many cases they will be called upon to provide some leadership at the community level.

One of the issues that is a difficult issue for any government, and it is something the federal government is considering at present, is that of compulsory blood samples. We are all aware of the controversy that has traditionally surrounded that issue. Most of us have a pretty good memory of the controversy that surrounded the issue of compulsory breathalyzer tests. It was argued by many well-motivated citizens, sin-

cerely, that the compulsory breathalyser test was an unreasonable interference with the individual, particularly in the context of the right to remain silent. The analogy with having to proffer a blood sample was in conflict with the traditional right of an accused or suspect not to be forced to give evidence that might be used against him.

Over the years, the public support for the compulsory breathalyser test has grown, and I do not think that is a serious issue today. But the issue of compulsory blood tests is an even more difficult issue, because it obviously involves a greater degree of interference with the individual.

Once again, as I have said on other occasions, we have the classic situation of two competing rights—and not only competing rights but compelling rights. On the one hand there is the right of the individual to be protected from unreasonable search and seizure, to quote our charter, one that undoubtedly will be argued and might well involve compulsory blood tests. On the other hand there is what I think is the more compelling right of the community to be protected to a greater extent than we are now from alcohol abuse on the highway.

This is an issue on which I would like to invite comment from members of the committee if they are prepared to offer any at this time. Given the importance of the ministry's commitment to accomplishing something in this area, I would welcome any comments at this time. I do not know how many members have had the opportunity of reading the staff report, but it would be helpful to us, and for the people who will be given this responsibility on a day-to-day basis, to have the committee's comments. Subject to the wishes of the committee, I would welcome any comments at this time.

Mr. Gillies: One point that comes to mind, Mr. Chairman, is the proliferation of what I believe they call in the business "moderation advertising." Very well motivated corporations, individuals and agencies are promoting the concept of the moderate use of alcohol, and specifically not drinking and driving.

However, in view of the almost constant bombardment of the individual by various media messages in this day and age, I wonder whether the message is getting through as effectively as it could if there were a greater degree of co-ordination. I was in the ad business for a couple of years before I came up here. One thing we know is that if you want to get a message through in this day and age, by means of a particular medium, the message has to be

consistent and it has to have a certain amount of coverage.

Right now we have the Insurance Bureau of Canada putting out a specific set of advertisements with very thoughtful suggestions, A, B and C. We have brewery X over here doing the same. We have an association of brewers, we have the distilleries and then we have the various ministries—the efforts, I believe, of your ministry, the Ministry of Health and so on.

All of this is good. Obviously the message is very important and of benefit to our citizens. But I just wonder whether, through the expenditure of the same amount of money, the message could be put through much more clearly if there were a bit of co-ordination, a bit of a partnership between the agencies of government and the various other agencies and corporations trying to do this.

To put it in a nutshell, instead of 100 different messages going in the paper once or twice, would it not be better if there were one very hard-hitting message, easily understood by the citizen, going in 100 times. As an old ad man, I have to think it would be somewhat more effective. Is that possible? Is it desirable?

Hon. Mr. McMurtry: It is both possible and clearly desirable. Obviously a distinction has to be made between what goes on in government and what goes on in the private sector.

The staff report does point out that there has been a lack of co-ordination in government programs and campaigns concerning alcohol abuse. This is an issue that has been addressed head-on by the staff group representing the various ministries that are involved in these programs. I am advised that at this time they are working for more effective co-ordination of these programs throughout the year to maximize the effectiveness of the resources that are allocated for these campaigns, and I hope that in the months ahead we will see a little better co-ordination within the government.

Within the private sector, of course, it is a more difficult challenge. First of all, I think some corporate responsibility has been demonstrated. I should say there have been a number of meetings with members of our staff working group and some of the industry representatives. This has encouraged some of these corporate campaigns. Some of the industries, most notably the brewing industry, had some concerns with respect to what the government might want to do in relation to lifestyle advertising. This has encouraged some of the breweries to allocate more resources to what I think are effective

campaigns to encourage people not to drink and drive.

The difficulty with co-ordinating these initiatives in the private sector is fairly obvious, because one can expect that each industry or each particular company wants to maximize the goodwill that might be directed towards its particular product or its particular company by engaging in this type of responsible initiative, through the billboards and other advertising.

We talk to members of the insurance industry on many occasions, and, of course, there is a greater co-ordination there; through the Insurance Bureau of Canada, they do attempt to co-ordinate their campaigns. There may even be ads in today's newspapers, promoted by the Insurance Bureau of Canada. But the idea of the breweries, the distillers and what not co-ordinating their activities is certainly very worth while, and we are going to continue to encourage these initiatives because I agree that the message can get very fragmented.

Mr. Breithaupt: Mr. Chairman, the members may recall that in my opening comments I raised some concerns with respect to driving and drinking offences. I noticed some of the press comments with respect to this report, but I regret to say I do not recall ever having received a copy and, in checking with my colleague the member for Riverdale (Mr. Renwick), I find that he does not think he got one, either. I wonder whether those reports were distributed to the members; certainly, just looking at the cover, it does not look familiar at all. Perhaps it would be worth while to check on that. Was it well advertised?

Hon. Mr. McMurtry: It was my understanding that copies were to be distributed to every member of the Legislature. I thought that had been done. I apologize if that has not been done.

Mr. Breithaupt: I just wonder whether it has been done, because in looking at the cover of the report, it just does not look in the slightest familiar to me. It may be that I just did not happen to get one.

Mr. Eves: I do not think we did either.

Mr. Breithaupt: The other members do not seem to recall it either; so this is perhaps something that should be checked on.

Hon. Mr. McMurtry: We will get some copies right now, at least for distribution among members of this committee, because it was my understanding that the day this was released there were copies that were supposed to be

distributed to each member. I apologize if that has not happened.

Mr. Breithaupt: I am sure that was the intention, of course, but I do not think it was done.

The comments I made at that time reflected the point that, unfortunately—to use the example of the Air Canada crash in Cincinnati and the comment that that happened every day—seeing the press coverage, media interest and public outcry on the front page of every day's newspaper would probably bring some results. But when you multiply the number of people in that unfortunate accident by the days in the year, you get effectively the total number of people in this country who are killed as a result of drinking-driving accidents, yet we seem to accept that whole theme.

10:30 a.m.

This is why I welcomed very much the involvement of the ministry in the co-ordinating role to have this report done and why I welcomed, when I heard of it, the appointment of Commissioner Erskine as the co-ordinator in a high-profile attempt to make a dent in this problem.

In looking at the newspaper clippings and reports at the time, the one theme that came to me from the media discussion was that the report appeared to dwell more on making changes to what we do now than on what I thought was the more important facet, enforcing the laws we now have.

It seemed to me in considering a way of dealing with these problems that the enforcement of what we have got now would be the first step. Whether or not the law should be changed as a result of the enforcement, I do not know, but just to change the law and expect that things are going to get better is not going to be sufficient. We must enforce what we now have.

The attitude of more time and commitment under the seatbelt legislation, which is being given some higher priority among the police forces, is the kind of thing I welcome. It is difficult to relate to the many things that a policeman on the beat has to do, and of course seatbelt infractions may be well down on a list of the other priorities in emergency situations every single day. Similarly, the drinking-driving offences are those that appear to have a tolerance level within our society.

The Attorney General mentioned in his comments today that there will be many in our society who will comment: "This is just another study. Here we go again; it will get put on the

shelf." But I am encouraged by the commitment he has made and by the involvement of Commissioner Erskine, because I think this may well be the study that is not put on the shelf and is going to have some follow-through. I certainly hope that is the case.

To go back to that earlier theme, it seems to me that the enforcement of the law we now have is the first step and that the variety of changes, improvements and other things that might occur, whether we are dealing with the driving age, the drinking age or a variety of other things, may well flow from that enforcement. However, until you enforce the law we now have and clear the decks of some of the attitudes within our society, changes in the law are not going to be enough to resolve the problem. That was the sense I got, and I do recall thinking at the time that when the report came through it would be interesting to see just how that dichotomy was considered. I look forward to doing that when we get the report.

Hon. Mr. McMurtry: Again I apologize for the fact that the honourable member has apparently not received a copy of the report. When he sees it, I think he will see that while possible changes in the law are discussed, the emphasis is really placed on the importance of attitudinal change at the community level if, as he put it, we are going to make a dent in this problem.

We are probably going to make only one dent at a time, but I think the cumulative effort obviously is capable of saving a lot of lives. The staff committee tries to make the point that while some changes in the law may be appropriate, far more is needed. This is why the emphasis is placed on initiatives at the community level.

In the area of law enforcement, I agree with the member that more effective enforcement of the existing law is a very important element. We are attempting to motivate groups to get started in every community, and we have groups that have formed. The People to Reduce Impaired Driving Everywhere group, which we refer to in our report, and other groups of citizens demonstrate the capacity of citizens to get involved at the community level.

I think this is very important in relation to law enforcement, because over the years as Attorney General and Solicitor General I have detected from time to time concerns that police forces understandably have with respect to appearing to be overly harsh in this area of enforcement. Police forces do not want to lose the goodwill of the community, and occasionally one runs into

attitudes to the effect that, "If we are too tough"—and there is obviously a fair element of truth in this—"if we are perceived as harassing citizens with respect to drinking and driving, then we are going to lose the confidence of the community as a whole, which is so essential to effective policing."

So part of our efforts through Commissioner Erskine's office will be to motivate the creation of citizens' groups in each community, perhaps with the local councils and other groups playing an important role, to make it clear to police forces that they do have the very significant support of the community as a whole with respect to vigorous law enforcement.

The line between vigorous law enforcement and what is perceived as harassment is usually a difficult line to draw and one that we have to be aware of drawing. But in working with police forces over the years I got the impression that some of them felt they did not have community support in these areas.

Seatbelt legislation is a good example of where community programs can save lives. To create an atmosphere where there would be more effective enforcement of seatbelt legislation, we arranged seminars involving all of the police forces and did a little proselytizing in that area, which resulted in a lot more enthusiasm by police officers for this type of enforcement, which can be unpopular. Even now, as the Solicitor General (Mr. G. W. Taylor) has stated, seatbelt use has slipped again, and I am sure he will again be engaging in these types of activities.

The report does focus on the importance of community involvement and on the police as part of the community instead of being detached from the community. As Sir Robert Peel said—what was that famous statement?—"The police are the public, the public are the police." This is why we are going to emphasize initiatives at the community level, which will involve local councils, we hope, school boards, police departments and automobile clubs, as in the Hamilton area, where the Hamilton Automobile Club has quite a distinguished history in highway traffic safety.

I have given a long-winded response to your comments, but I just wanted to emphasize the fact that the thrust of this report is towards community initiatives rather than simply changing the law.

Mr. Breithaupt: So really the report has three themes: not only the enforcement of the present law and some suggested changes to the law but

also, most important, the attitudinal changes within our society.

10:40 a.m.

That is a good thing to consider. When you look at the relationship of the cop on the beat to the job he or she has to do, many police, like most of the rest of us, enjoy a beverage on occasion. The idea that you can still drive with a drink or two, the "It has never harmed me" approach, is one that is going to be reflected in their view of the possible dangers and risks of a percentage chance of a problem just as much as it does for every one of us.

Since that is an attitude they will have, as ordinary citizens do, it is the kind of thing that will take some careful balancing in order to change it without the harassment view or the unreasonableness view in a society where the making and selling of alcoholic beverages is not only allowed, but indeed where the taxes raised from it are well received by provincial and federal governments. As we are living to some extent off the avails in this instance, it is a rather difficult line to walk.

Mr. Lane: Mr. Chairman, I have not had a chance to read the report either, and my concerns may be answered in the report, but like many other people in the public, I am very concerned about the increasing number of tragedies that are happening as a result of the abuse of alcohol.

There was one case in my area just last year where I had some difficulty understanding just what the procedures were. Obviously they were not what I thought they should have been. In any case, maybe the report answers it.

In this case, a young man was driving on the highway with his wife and in-laws at two o'clock in the morning and a tractor suddenly pulled on to the highway in front of him, resulting in a bad accident. The young man driving the car was killed and the chap driving the tractor, who apparently had been indulging a little bit and who did not have a licence to drive a car, was knocked unconscious.

An autopsy was performed on the young husband and it indicated he had not been drinking. The chap who was on the tractor was unconscious when he was taken to the hospital and I understand they felt they could not take a blood sample under that condition. I suppose this chap will be charged with some minor infraction such as failing to yield and will receive a minor penalty. Yet we have a young husband dead, a young wife deprived of her

husband and two children deprived of their father.

That is just one of the many cases we have where there seems to be something seriously wrong with the situation. Here we have a tremendous loss on one side caused by somebody on the other side who is going to get off scot-free. How do we correct a situation like that?

Hon. Mr. McMurtry: That certainly comes directly to the point of whether there should be changes in the law to permit the compulsory taking of blood samples from people who are injured or who are feigning injury. One of the problems that concerns police is that people who know they have had too much to drink and are involved in an accident do feign injury in order to avoid the request for a compulsory blood test. This is a matter of concern to police and one of the reasons I tend to favour the concept of the taking of blood samples.

If you save but a few lives, I think that type of interference with the individual is justified. I think as people continue to see the tragic statistics in relation to alcohol abuse, the public will be more likely to accept this type of legislative initiative than it was several years ago. That is the type of case towards which this legislation would be directed.

I know Saskatchewan introduced legislation at the provincial level as the result of a tragic accident that involved many deaths. The suspect was partly unconscious and it could never be established what was believed; namely, that the person had an excessive amount of alcohol in the blood system.

Legislation has been introduced in Saskatchewan and British Columbia. If the federal government does not introduce it as part of its amendments to the Criminal Code this fall, this will be an issue that will have to be dealt with by the government of Ontario, whether we should go the BC and Saskatchewan route, which is a less satisfactory way to proceed in so far as compulsory blood samples are concerned. You have dealt squarely with the issue towards which this type of legislation is directed.

Mr. Renwick: Mr. Chairman, I will accept the suggestion of the Attorney General that I read the report and if I do have any useful comment I will certainly make it.

There will undoubtedly be refinements and undoubtedly be contentious issues, but I think on balance the text of the law as it stands is the result of a great deal of experience and is reasonably adequate. I think contentious ques-

tions such as the one you have already raised will come up, but I do not think the answer to the question lies in refinements of the text of the law.

I know you will recall the contentious legislation we had—I think it was in December 1981—in the amendments to the Highway Traffic Act with respect to the right of a police officer to stop and the right of a police officer to lift the licence on a temporary basis if the reading was as specified in the act. My first question is, is there any experience as yet with the response of the public to those amendments to the Highway Traffic Act?

Hon. Mr. McMurtry: The best information I have been able to receive from the Ontario Police Commission, which is co-ordinating the response of various police departments, is that there seems to be very substantial public acceptance of the legislation. I have received no letters of complaint that I can recall, not a single one. I introduced it when I was Solicitor General and my recollection of having discussed this with the Solicitor General a couple of months ago is that he had not received any complaints.

The Ontario Provincial Police have been very active in this program and we have the figures. I think Mr. Haliechuk of the Toronto Star did an article on this two or three months ago and gathered some of these figures as well. There was a very substantial number of 12-hour licence suspensions by the Ontario Provincial Police and more uneven use of the legislation by other police forces throughout the province.

I believe the Ontario Police Commission is doing what it can to encourage police forces right across the province to make greater use of this type of roadside testing. Again, it is the perceived presence of police officers on the highway that is most important with respect to reducing the incidence of alcohol abuse. The controversy surrounding the legislation was understandable, yet I am happy to report that the acceptance by the public seems to be very substantial.

Of course, a number of people have had to pay towing charges as well as lose their licences. In certain areas of the province it just was necessary to have the car towed away as opposed to making other arrangements for its removal. Even with the fact that hundreds if not thousands of people have had to pay towing charges as well, it does enjoy public support generally.

10:50 a.m.

Mr. Renwick: The second comment—and I

am sure it has been made many times and it is supported by what Mr. Gillies said—is that I have been struck by some analogy between the attitudinal change which has taken place with respect to cigarette smoking over a period of time, a goodly part of it reinforced by quite sophisticated advertising campaigns of one kind or another by interested people rather than a bludgeon type of approach to the question or a dire penalty aspect to it in any way.

It does seem to me that there is a common interest between a number of institutions of society which would lead me to believe that it would be possible to co-ordinate an effective, sophisticated, long-term advertising campaign that would in various ways strike home in one way or another as the attitudes have changed perceptively from a layman's point of view to the question of cigarette smoking. It struck me—and I say it is trite and obvious—that the government of Canada, each of the provincial governments, the breweries, the distilleries, the wineries and the insurance industry in all of its aspects have in a sense, for differing motives, a common interest in an attitudinal change over a period of time towards the relationship of the automobile to drinking and the consequences that relate to it.

It seems to me that those institutions, government and industry as well, represent sources of funds that could undertake a co-ordinated campaign sponsored overtly by those various groupings that have a common interest in it.

As I say, I tend to think that—very much what Mr. Gillies was saying, and what Mr. Breithaupt was saying—is very much the approach that would produce the greatest benefit over a period of time, reinforced of course by adequate police enforcement of the law and by the refinements, if necessary, to the text of the law in the sense that the police officers have the public support in the enforcement of the program.

I think there has been some progress made, but I do believe the bits-and-pieces attitude has to give way to some form of co-ordinated campaign overtly sponsored by the various diverse interests that are interested in the problem and interested in the liquor business and the profits that come from it, which are very significant. All of them—with the exception of the insurance industry—the governments and the distilleries, the wineries and breweries, have a common interest in the profit aspect of the industry.

Hon. Mr. McMurtry: Yes, we will certainly pursue those initiatives. While we have met with

individual representatives of the industries about which you have just spoken, I think it would be a good idea to get them all together at the same time and explore some of the thoughts that have been expressed.

Mr. Breithaupt: Indeed, it might be an opportunity at that point to again have the kind of symposium we have talked about, whether it is on television in the courtroom or in an area such as this, to which members of the Legislature might be invited. I think the comments of our colleague the member for Algoma-Manitoulin (Mr. Lane) about a particular example is the kind of thing that would hit home, I would hope, to representatives of this variety of interested and profitable businesses, although I am sure they recognize many of these examples every day and, unfortunately, no doubt some in their own personal experience.

Mr. Renwick: My last comment would be simply that I would ask that perhaps a year from now we do have included in your report, sir, or wherever is appropriate, an assessment of the effectiveness and the acceptance of those amendments which were made to the Highway Traffic Act two years ago this December.

Hon. Mr. McMurtry: Yes.

Mr. Stevenson: Mr. Chairman, I had two comments and one has pretty well been made now. Certainly, I believe there have been enough tragic situations in many communities that people's attitudes are very definitely changing and they would be much more tolerant towards the extra policing that the community would have classified as harassment by police a few years ago. That would be the case in the area I represent.

The main thing I wanted to ask about is this. I believe there are other jurisdictions such as Florida that have substantially tougher legislation than we do as far as punishment of drinking drivers is concerned. I believe Pennsylvania is bringing in new legislation, or it has just come in, and I think there are a few other states.

Are there statistics available that would indicate how successful that sort of legislation has been? In particular, how does it affect various groups of drivers? It would be interesting to know how those statistics would compare, for example, between young drivers, the more social type of drinker and I suppose the habitual drinker, to see the response to tougher legislation across those various groups. Do you know if that information is available? Have you tried to get it?

Hon. Mr. McMurtry: Yes, Mr. Chairman, we have tried to obtain as much information as we can in relation to these measures in other jurisdictions. California is another jurisdiction that as of January 1, 1982, introduced a mandatory jail term for first offenders with respect to impaired driving.

The information we have able to obtain has been mixed at best. It is too early to really make any judgement as to what effect that has had in California because the cases tend to get bogged down in procedural wrangles and very likely delays because of the mandatory jail sentence. Unfortunately, the across-the-board experience has been that these tougher penalties have not produced the results their advocates and supporters had hoped for.

In many cases there is a temporary reduction, but when we examine the statistics, notwithstanding a good deal of mythology about the effectiveness of these mandatory jail sentences and lifetime licence suspensions, etc., in other jurisdictions around the world, closer examination has indicated that it has not produced the hoped-for deterrent. Most studies indicate the problem, quite apart from the obvious attitudinal problem, seems to be that until you increase the perception of apprehension, the tough penalties are not particularly effective because most people who drink and drive simply believe they are not going to be caught.

11 a.m.

Until you can increase the individual concern about apprehension, unfortunately, the possibility of a tough penalty is relatively remote in many people's minds because they think the chances are so good they will not get caught. Until you raise the level of apprehension about detection, most studies would indicate you are not going to make a serious dent. I am not suggesting that tougher penalties are not a part of the equation, but there is that problem of apprehension.

Even under our existing laws, the result for the average citizen for a conviction of impaired driving is a lot tougher than most people think. For somebody who is going to drive without a licence, that type of person who just does not care or takes these sorts of chances, then maybe tougher penalties have to be part of the answer. For example, I think we have to be much tougher with people who are convicted of driving under suspension. When I was called to the bar 25 years ago, if you were convicted of driving under suspension, it was pretty well an

automatic jail sentence, but the courts have got much softer, and I think that is unfortunate.

For the average citizen, an impaired driving conviction is relatively serious. It is not just the penalty one pays of \$300 or \$400 or \$500, but the loss of driving privileges can be very serious for many people and their insurance rates go up very dramatically. The cost is probably much more significant than most people realize, and yet it has not had the hoped-for deterrent effect.

One of the recommendations is made in this report, which I hope my colleagues in government will move with, again in the context of driving under suspension, is photographs on drivers' licences. According to police authorities, there are a distressingly large number of people driving on the highways at any given time while their licences are under suspension. The police believe photographs on operators' licences are absolutely essential if they are going to discourage or create a deterrent.

Many people, of course, just borrow other people's licences and sometimes are able to obtain more than one licence, but it is clear to me that photographs on operators' licences would certainly be a deterrent with respect to people who want to flout the law with respect to driving under suspension. Also, it can be a help to individual citizens when they are seeking to identify themselves for credit reasons or purchasing something with a credit card.

The fact that one has an operator's licence with a photograph on it can be useful to the individual citizen, quite apart from the assistance it would be to the police in enforcing the law against these drivers driving under suspension. I have to say publicly I will be very disappointed if the government does not move on this particular recommendation because it has been around for a long time.

Mr. Breithaupt: It is interesting to see how those themes have changed because 10 or 12 years ago the idea of the photograph on the driver's licence was viewed by many as quite quite an invasion of privacy, and yet some jurisdictions have done this. I think the age of majority card was brought in to try to bridge that gap, at least as far as younger people and the opportunity to purchase beer or other stimulants or identify themselves at a tavern or some other location was concerned. Yet many of the senior citizens—and this is something we found in the select committee on company law as we looked at some insurance concerns—would welcome the idea of a photograph on their drivers' licences because of the identification,

cheque cashing, purchasing usefulness that would bring to them.

As a result, the invasion of privacy theme, which seemed quite important at the same time the social insurance number concerns were also being met with that privacy view, has now, at least within my understanding, mellowed somewhat and the benefits of this other theme appear to outweigh those earlier concerns. I think that repetition of the benefits which changing societal views have on the taking of blood samples is again a reflection of 10 years later and an attempt to deal with the continuing problem with perhaps have a little less privacy, a little less human rights as we traditionally do in this country, as we once again prefer order to the freedom that is the American individual attitudinal choice.

Mr. Renwick: Certainly, as I said, we will read the report and the comments with respect to that recommendation. I personally would have to think very seriously about the principle involved in the question of identification by photograph.

It is one thing to say one can carry a photograph of oneself around in one's billfold for the purpose of identifying oneself for purposes of getting a drink or for purposes of facilitating purchases at stores or voluntarily saying, "I want you to know that I am the person who is indicated." The other side is the very fundamental principle that there is no requirement of a citizen to identify himself in any way to the police or to explain himself if he is going about his lawful occasions and the police officer has no reasonable and probable grounds to believe he has committed or is about to commit an offence.

That kind of question was touched upon under the question of the amendments to the Highway Traffic Act with respect to the right of a police officer to stop a motor vehicle willy-nilly, as I think the phrase was used at the time, or regardless of any reason to believe an infraction of the law had taken place.

Second, when we talk of an operator's licence, we are talking about a very large portion of the population and we are verging on the question of the state requiring a person to carry an identification paper which that person must produce to lawful authority, the police, on demand.

I would certainly be prepared to rethink again the conflict between the two concepts, the need for it and the social need for it, but it would be a difficult decision for me to come to support the

view that an operator's licence should carry the identification photograph.

Hon. Mr. McMurtry: My support for that proposition is based on the concept of the principle most of us accept, that the operation of a motor vehicle is a privilege and not a right.

Mr. Renwick: I have no problem with that.

Hon. Mr. McMurtry: I do not think there is any quarrel about that.

Mr. Renwick: No.

11:10 a.m.

Hon. Mr. McMurtry: According to police officials, there are at least 50,000 people driving in Ontario at any given time with licences under suspension. Looking at it in that context, I think we were faced with the traditional dilemma of competing rights—the right of individual citizens not to be forced to carry an excess amount of identification as they go about their daily lives.

One's photograph on his operator's licence does conjure up some negative image. I appreciate that, and some would say it was his right not to have that. While this is clearly of concern to you, in my view it is a more compelling right of the community to receive greater protection against this massive flouting of the law—driving under suspension.

In looking at those competing rights, I would have to opt in favour of the right of the public to receive a greater degree of protection. I believe photographs on an operator's licence would provide that. But it is another issue about which reasonable people could disagree.

Mr. Breithaupt: Do you not think there will be a change in the total numbers when the plate-to-owner system is fully operational? One would expect only the most cunning of these 50,000 will either borrow other identification or drive a vehicle other than the one they may own. Of course, many of them may not own vehicles.

I would have thought, though, that some cutting into that 50,000 figure might well occur as a computer response to checking the vehicle licence plate. Just as it would show unpaid fines and other matters, it would also show if the owner of that vehicle had a suspended licence. Do you think that system will include that material so that the roadside check could bring that up right away, or is that not going to be readily available in the immediate future?

Hon. Mr. McMurtry: I think you are right. I would hope this would serve as an effective aid to reducing the incidence of driving while under

suspension. I would hope this information would be part of what is fed into the computer that would be available to police officers who are making these checks once we have the plate-to-owner system. I certainly have always hoped that would be one of the advantages of the system.

Mr. Chairman: Might I add one thing? I believe an attitudinal change is coming. I recall a case on Highway 400 where a woman and three children were killed, and they found the fellow was driving with his licence under suspension. This is the kind of thing that is changing people's attitudes towards the problem. Mine changed a long time ago. I think lives are important. It is a big problem with these people taking the chance to drive. They are very cunning. You see that when you run across a few cases of how they get another driver's licence while their own is suspended.

Mr. Breithaupt: Being a publican of some tradition yourself, you can understand the change in attitude of persons involved in the hospitality industry, to use a broad term. More particularly, there have been actual court decisions that have made a bartender or owner of a pub more directly liable. As one example, the bartender of a legion branch where the offending person spent the evening might be held liable. This I think has shaken a lot of these traditional attitudes of having one for the road.

Mr. Gillies: Are we still in your section?

Mr. Stevenson: Yes, we are still on my section here. I would like to ask that if any good reports from the States on their experiences become available they be made available to this committee.

I have seen one press report on this matter, I believe involving an official from Florida. He did not quote statistics or anything—it sounded as if it might be only his speculation—but the report suggested the more social-type drinker had probably changed his attitudes and drinking-driving habits and was more careful. But it also suggested the statistics of the younger drivers, as well as the habitual drinkers, had not shown much response at all to tougher legislation. It would be interesting to see if the data collected to date is sufficiently good to draw those sorts of conclusions or whether that report was largely just speculation.

We see in advertising, and certainly it does occur in real life, that people are getting what appear to be very tough sentences for breaking laws and regulations relating to wildlife control, hunting regulations and so on. At the same time,

we see impaired drivers apparently getting off considerably more leniently for killing someone on the road. I think we do have to have a very careful look at this situation and try to resolve some of these problems. I feel people are getting away far too lightly with some of the very tragic situations they cause.

Mr. Gillies: Mr. Chairman, I have a number of specific points and themes that come to mind as we talk about this. The various things we have talked about that could be considered preventive steps—attitudinal change and things of that sort—in the long run are going to make more of a dent in this problem than the imposition of sanctions. Nevertheless, sanctions are going to be required and we have to consider which are the most appropriate.

My concern with the sanctions we are levying now is the one I am sure you have heard many times whenever we talk about the subject of fining. In levying a fine for this, it could be considered in a sense to be licensing the offence. Those better able to pay the fine are less hurt by society's sanction than those who are not.

It leads me to wonder about California's experience with a mandatory jail sentence for the offence. I am not advocating this because I have not read enough about it and do not know enough about it. But is it something you are considering in the short term or the long term?

Hon. Mr. McMurtry: It is something we are monitoring. This would require an amendment to the Criminal Code of Canada. The federal Minister of Justice has talked about it from time to time as a possibility.

There is an inherent problem with mandatory jail sentences for first offenders. There is no question it can create a good deal of unfairness if there is no flexibility in the system. But the California experience is going to be monitored pretty closely by ourselves, the federal government and other provinces. I am not opposed to the concept, but I think it has to be approached with a good degree of caution.

Mr. Renwick: I think it also has to be looked at in relation to the effect of the attitudinal change on the court of appeal. The appeal court's attitude has changed dramatically with respect to the nature of the penalties imposed for drinking and driving within the last 18 or 20 months, not a long period of time.

11:20 a.m.

Hon. Mr. McMurtry: Even within the last year.

Mr. Renwick: Yes. They have been giving some very clear instructions to trial division judges, both provincial and county court judges, about the sanctions that are to be imposed. Before we go to an automatic jail sentence for a first offence, we should look at what the pattern of the judges' responses has been and the very evident attitudinal change that has taken place.

Mr. Breithaupt: Another thing in that same aspect is that we must always be a bit careful about the California experience, as the Attorney General has said. If this first offence jail term is bogged down with all sorts of procedural delays that go on for years, while the effect sounds great at first view, it does not have that result at all.

Another example comes forward in the studies of insurance in which I was involved. We were informed by the officials in California that they had a compulsory insurance law. The only problem was they did not bother to enforce it. It sounded great, as if this was the source to go to for information, but the effect was that about 40 per cent of their drivers were not insured. Many of them were driving unsafe vehicles, and the only time the insurance premiums were changed was when a person was caught having done that and then bothered to apply for insurance. Then some penalties would be brought in.

The phrase "mandatory jail term," just like "compulsory insurance," does not mean anything if enforcement and other attitudinal matters are not involved. In this aspect, a mandatory first offence jail term is quite a harsh penalty to our way of looking at things because of the way our system works. There the system may well break down in trying to enforce that kind of a seizure if, in fact, it is in force.

Mr. Renwick: It is important to bear in mind that it is discretionary now.

Mr. Gillies: Even on a first offence?

Mr. Breithaupt: Yes, it is discretionary now.

Mr. Renwick: It can be imposed. It may well be better to leave it and let the attitudes of the court determine the extent and degree to which it is used.

Mr. Breithaupt: This has been the approach we have been taking ordinarily as the administration of justice has occurred.

Mr. Gillies: Of course, there is the whole middle road between fining and a jail sentence. I think there are some very positive sanctions being imposed that could increasingly be imposed.

Mr. Breithaupt: I did not think much of writing something out 500 times.

Mr. Gillies: No. That is another subject, but in terms of meaningful service perhaps in this very area.

The other thing that comes to mind is that on balance I will come down on the Attorney General's side of the driver's licence argument. I happen to believe myself that operating a motor vehicle involves some very serious responsibilities as well as rights. I suspect that the public's attitude is that anything that can be done in this area to eliminate abuses in the operation of a vehicle is acceptable.

This raises another question that I hear from time to time from people in the community, and I happen to believe this myself. I know this spills over into the area of jurisdiction of the Ministry of Transportation and Communications, but I think right from the word go it is just too easy to get a driver's licence in our province. Compared to many jurisdictions, and Great Britain comes to mind, it is just too easy to get behind the wheel of a 2,000-pound-plus piece of metal and start careening around the streets.

I wonder if you have any thoughts in this area, whether we should be looking at, as they have in Great Britain, a period which all drivers go through when they have learner plates and are retested before they get their final authorization to operate a vehicle.

As part of that, I wonder whether part of this attitudinal adjustment we are seeking through advertising and everything else could not be imparted at the time when an individual goes first to apply for a licence and learn how to use a vehicle. At the time a person learns to drive the car, the state could say in some way: "Okay, one of the big problems of operating a vehicle is abuse of alcohol. Here is some information about it. When you come back to do your test, quite apart from when you make a left turn and how you parallel park, we are going to be asking you about the effects of alcohol abuse in an automobile."

Hon. Mr. McMurtry: I have one child who has been up for a test about three times and has given up for the moment on driving; so I do not know for sure how easy it is.

Mr. Breithaupt: Reinforcement is a good theme to consider. Of course, I am perhaps different from some. I would like to see everything tied to 18, including drinking and driving, as the age of majority for all purposes, and would suggest you could get a driver's licence at

16 if you took a proper training program which would include that kind of alcohol-related situation.

It certainly is an area that could very well be strengthened at virtually no cost and with a very broad effect over the group that is most likely to be influenced by having that information at a time when it is smart to go out, have a drink and then drive. The peer pressures are much different. We might be able to reverse or suitably change those peer pressures if they were dealt with at that point, because that influence would last through the person's next eight or 10 years. After that, it would be hoped that maturity would take a hand.

Mr. Gillies: I do not think it would be too hard to set up either. If a person goes through the testing procedure, is awarded a licence and then the people who work for examination centres say, "Okay, we want you to sit down and watch this film which demonstrates the horrors of drinking and driving," that might have some limited effect. But if it were part of the instruction procedure and people knew they were going to be tested on it, they would have to make an effort to take in this knowledge and retain it for a period of time.

I just suggest that as yet another tool we might use.

Mr. Chairman: Might I ask another question related to driving under the influence? We discussed the alcohol problem. How about the drug abuse problem? Have we looked into it in this staff report, or is it a separate issue? Is it an issue?

Hon. Mr. McMurtry: It is an issue, but this report really deals with alcohol abuse on the highway. One of the problems with the use of marijuana, for example, is that it is very difficult to detect. The Deputy Attorney General advises me that Commissioner Erskine has been in recent contact with some American authorities who are developing some tests they believe may be effective in detecting drug use, but they are still at an experimental stage.

Mr. Breithaupt: Are they including medical prescriptions as well as marijuana or the other proscribed substances?

Hon. Mr. McMurtry: I assume they would be included. I do not know the details.

Mr. Gillies: Is the aim to put the testing and detection on a level such that the sanctions for abuse of drugs in operating a vehicle could be equivalent to the sanctions in the case of

alcohol? A person can be just as inebriated on marijuana as on alcohol.

Hon. Mr. McMurtry: It is a matter of principle. Yes.

Mr. Breithaupt: Heroin is bad.

Hon. Mr. McMurtry: You can be convicted now for impairment, whether it is by alcohol or drugs, but drug impairment is more difficult to detect.

11:30 a.m.

Mr. Gillies: At this time I am assuming that the detection of a drug such as marijuana requires a police officer to take a person to a hospital. Is this how it is done?

Hon. Mr. McMurtry: No, I do not think—I do not know how they do it. To my knowledge, first, there are no compulsory tests.

Mr. Breithaupt: It would be in a blood sample.

Hon. Mr. McMurtry: I think a blood sample would indicate the presence of marijuana, but anything short of a blood sample would not.

Mr. Chairman: Has anyone any other questions related to this issue, or would you like to start on one of the other issues on vote 1?

Mr. Breithaupt: There is a variety of other themes that were raised that the Attorney General may wish to comment upon, or we could ask a few questions generally, if he would like, and perhaps use this morning to clear up effectively the opening statements and general comment.

Hon. Mr. McMurtry: Yes. We could perhaps get back to this, if it is the desire of the committee, when members have had an opportunity to read the report.

The next item I was going to ask the Deputy Attorney General to deal with is the issue of Roger Crowder, raised by Mr. Renwick.

Mr. Campbell: In his opening statement, Mr. Renwick raised the case of Roger Crowder and had previously tabled in the Legislative Assembly the question: "Why has Roger Crowder been detained in Metro East Detention Centre since July 2, 1981, and what are the particulars of the charges against him, of his court appearances and of the disposition of the charges?" That question was tabled on June 6, just before the commencement of our estimates in June.

The case is fairly complicated and requires a little bit of factual background. Mr. Crowder was arrested in the evening of June 30, 1981, on a number of charges. The background to the charges were that Mr. Crowder—and this is a

matter that has been dealt with by the courts; so there is no difficulty in recounting the circumstances as alleged by the crown and as proved in court—and another man attended at the residence of a Mr. Stoehr.

Some time during the evening, Mr. Stoehr was stabbed repeatedly in the stomach with a screwdriver. A knife was then used and held to the stomach of the victim and money was demanded. The victim somehow managed to get away and got outside, where he collapsed on his front lawn, was seen by a neighbour or a passing citizen, and the police were phoned.

Mr. Crowder fled. A co-accused was arrested. Mr. Crowder was arrested very soon afterwards, charged with robbery, conspiracy to commit robbery, assault police, assault resisting arrest, obstruct police and wounding with intent to commit an indictable offence. He appeared in Newmarket court for a show-cause hearing.

On July 2, 1981, the application for release, on the consent of both the crown and the accused through his counsel, was adjourned until July 12. The accused was transferred to the Metro East Detention Centre and was admitted July 2. Mr. Kenneth Danson acted for him at that time and, so far as I am aware, still acts for him.

That judicial interim release hearing was held on July 12. He was denied release and ordered detained pending trial and again, in the ordinary course, transferred immediately after that to the Metro East Detention Centre.

It should be pointed out, of course, that some of the relevant primary and secondary grounds have to do with the public interest with the possibility of dangerousness of the accused person, and to that extent the circumstances of the offence and criminal record are relevant.

At that time, the record of Mr. Crowder was that he was convicted of break and enter with intent in 1978 and two counts of robbery later in 1978; conviction for robbery in June 1979; conviction for theft over in December 1980.

Then towards the beginning of May 1981, about a month and a half or two months before these offences, he was convicted of possession of stolen property over \$200, causing a public disturbance and failure to appear, of which the failure to appear charge perhaps would have been the most relevant conviction for the purpose of the judge hearing the show-cause hearing.

So far as I am aware, that show-cause determination by the magistrate or justice under part XV was not appealed by the accused. That was in July 1981. Beginning in September he commenced a series of charges in provincial court in

Newmarket, and he appeared in provincial court on September 3, 9 and 16. He appeared October 28, December 14 and four times in February. A trial was held in February in front of His Honour Judge Shearer; so there must have been a committal for trial in the interim.

At that time, he was convicted of robbery and assault police. He was acquitted of wounding, obstruct police, conspiracy and resisting arrest. Apparently no reasons were given for the dismissal of those charges, but it would appear as though some of them were really other aspects of the offences for which he had been convicted.

The co-accused was found guilty of a number of offences.

Mr. Renwick: It was after trial.

Mr. Campbell: Yes, sir.

Mr. Renwick: It was not by any crown plea negotiation?

Mr. Campbell: I do not know. I assume that it was a trial. It said a trial was held in front of His Honour Judge Shearer.

Interjection: It was a trial.

Mr. Campbell: I am informed that it definitely was a trial.

Mr. Crowder was sentenced on February 27, 1982, to three years for robbery and 18 months consecutive on the assault charge. At the end of February 1982, he received sentences of imprisonment for four and a half years. I understand some of those, if not all, are currently subject to appeal in the Court of Appeal with respect to the sentence.

The particularly relevant dates there would be the appearance at the beginning of July and in custody until the end of February, when he was convicted and sentenced.

Mr. Breithaupt: How long had he been in custody, then, until his conviction?

Mr. Renwick: Eight months.

Mr. Campbell: Approximately eight months. I would point out the fact that, so far as I am aware, he did not appeal the show-cause determination or appeal either to county court or to a single judge of the High Court. There was also a firearms prohibition as part of the sentence and a recommendation for drug and alcohol treatment.

In February, while he was in the holding cells awaiting a court appearance, there was an incident as a result of which an officer was injured and was off duty for about a week. As a result of that incident, he was charged with a count of assault bodily harm and three counts of assault police.

As a result of those charges, he appeared a number of times in February, March, April and May. On each of those occasions, which were mainly during a period of time when he was already serving a four-and-a-half-year sentence, the information is marked, "Bail hearing not commenced."

My understanding is that during this period of time, defence counsel was attempting to persuade the crown attorney to submit to the court that any sentence with respect to those matters should be made concurrent with those offences for which he was serving the term of imprisonment, and the crown declined to do that.

11:40 a.m.

The last judicial bail release hearing was May 14—I am sorry; I am not sure that is the correct date. At any rate, a trial date of November 25, 1982, was set. On that date the crown proceeded by indictment. Preliminary inquiry was held, and he was committed to the next assignment court. That was on November 25, 1982.

It was not possible to get him on to the next assignment court, which would have been a couple of weeks after November 25, because that assignment court, as I understand it, had already passed the cutoff date for the number of cases that could be dealt with on that date. The first regularly scheduled assignment court after that was March 1983. He appeared, or perhaps just his counsel, and a trial date was set for September 6, 1983.

On September 6, 1983, the case was adjourned, apparently to give priority to some other matter. Mr. Danson, the counsel for the accused, was not available for trial until approximately next March; so a trial date on those outstanding offences was set for February 27, 1984. We are advised by the crown attorney in Newmarket that an earlier trial date could have been set for this fall, but defence counsel was not available and he was accommodated by the court and by the crown.

To analyse the reasons for the delay or the period of time: The adjournment of the initial bail hearing was on consent; more information needed to be brought together. It was a matter of a relatively short period of time. Between July 12 and September 3, 1981, the accused was in custody pursuant to the detention order; that would not be an unusual amount of time under those circumstances.

The period from September 3, 1981, to February 26, 1982, involved adjournments by defence counsel in the attempt already mentioned to secure the recommendation of the crown for

concurrent sentences; since those matters are still pending before the court, perhaps I should not say any more about that particular aspect of the matter.

One matter that might have been of some concern was the period from February 26 until May 14, when the trial date was set for the four new charges. I suppose there is a question as to whether those court appearances were necessary at that time, because he was otherwise detained in the sense that he was serving a sentence.

The six-month period from the March 30 assignment court to the September 6 trial date is not unusual, given the work load of that court. Again I would point out that during this period he was serving his sentence of four and a half years.

That is the information with which we have been supplied. If there is any other material, we will be glad to get it.

Mr. Renwick: So in the case of Mr. Crowder, because of alleged offences that took place in the holding cells in February 1982 on which charges were laid, he is not going to come on for trial until February 1984?

Mr. Campbell: Yes. That is correct.

Mr. Renwick: I understand that he was in lawful sentence in any event, but he was in Metro East Detention Centre, which is a facility that at least can be said to be, in a sense, overcrowded.

Mr. Campbell: Yes.

Mr. Renwick: I appreciate the information. There is an eight-month period between the time of his arrest and his original sentence—

Mr. Campbell: Yes.

Mr. Renwick: —and then we find that about the time of his trial and sentencing he is alleged to have committed other offences, and that trial is going to take place two years after the events.

Mr. Campbell: Yes. I would point out that it does not appear from the information we have that his counsel was particularly anxious for an early trial. In fact, a number of the adjournments were made at the specific request of the defence.

Hon. Mr. McMurtry: If there are no other questions with respect to the Crowder matter, Mr. Chairman, the next item I was going to turn to is the issue of hate literature, which was raised in the opening statements and which is a matter of some interest in the Legislature.

This is a matter that concerned me some time

before I was elected to the Legislature. I can recall conducting, I think, the only successful prosecution under the Telephone Act against members of the Western Guard with respect to a taped telephone hate message that was being used in the early 1970s and being aware of the impact this kind of activity had on minority groups. It is an issue that I can say has been of concern to me for many years, certainly during the past eight years in which I have had the privilege of serving as the Attorney General.

I have made many addresses on this issue during those eight years and indicated that this is an issue that has to be continually addressed. One of my favourite quotes was that of the late Dag Hammarskjöld, who wrote: "The madman shouted in the marketplace, but no one stopped to answer him. Thus it was confirmed that his thesis was incontrovertible." In many public addresses over the years I have taken the position that it is necessary to answer the madman because, left unanswered, his malice can poison the climate, particularly in the pluralistic, multicultural society in which we live. It certainly has been the mandate of the ministry to answer the madman whenever we can.

It was at my personal urging, which was recognized in the Parliament of Canada, that the former Minister of Justice of Canada introduced amendments to the Canadian Human Rights Code to provide for a procedure to eliminate telephone hate recordings. Beginning in 1976, we have been circulating memorandums to our crown attorneys reminding them that any criminal offence that is motivated by racism should be treated as a particularly serious offence for that reason.

11:50 a.m.

In one celebrated, tragic case—the case of the Tanzanian immigrant who was pushed on to the subway tracks—when the trial judge sincerely did not believe that the racial motive was an issue in sentence, you recall that we launched a very vigorous appeal and the Court of Appeal agreed with our submissions. In a very strongly worded judgement for the court, Mr. Justice Dubin indicated that any attack that was racially motivated should be treated particularly seriously because it attacked the social fabric of our community and any sentence must reflect the abhorrence of the community as a whole. Further, it was a result of our initiatives that the race relations division of the Ontario Human Rights Commission was established to give a focus in this area.

I mention these facts simply because I am obviously concerned about any suggestion that we are not going to vigorously prosecute any infraction of the Criminal Code in this area, the area specifically of hate literature. For several years I have had a committee of my ministry examining every piece of offensive or repugnant material that comes to its attention with a view to a possible prosecution. Our view remains that if there are clear contraventions of the Criminal Code they will be prosecuted vigorously with all of the appropriate resources from the ministry.

As I have said on other occasions, the issue of hate literature obviously is not an easy one. Quite apart from the complex legal problems involved in such a determination in each and every case, the act of distributing literature or communicating statements of hatred must be proven by the crown beyond reasonable doubt in order for successful prosecution to take place. Unfortunately, our experience has been that in the cases where our senior legal counsel have been of the view that there has been a contravention of the Criminal Code, we have been unable to attach the publication or the documents to any individual organization. However, the investigations are continuing in this area.

The Leader of the Opposition (Mr. Peterson) has shown some recent interest in this matter and publicly has brought to my attention the article entitled, *The Keegstra Affair*, authored by one Ron Gostick, in a publication called *Canadian Intelligence Service*. I can advise this committee that a number of senior lawyers in the ministry have been reviewing not only this article but other articles that have been attributed to Mr. Gostick. The Ontario Provincial Police have been investigating the publication and distribution of the circular in question and are being advised by crown law officers in this regard. The completion of the investigation is expected fairly shortly.

I would also like to point out that the Criminal Code of Canada, as at present constituted with respect to hate literature, leaves, in my view and in the view of my senior advisers, much to be desired. On a number of occasions, senior officials of my ministry have suggested to the federal Department of Justice it substantially revise and amend the hate literature provisions of the Criminal Code. Although prosecution is now possible in certain very restricted circumstances, I think we are all aware that there are enormous barriers to successful prosecutions in respect of much of the material that is being

disseminated today. The sad fact is there has yet to be a successful prosecution under the hate literature provisions of the Criminal Code anywhere in Canada.

One of our successful prosecutions at the trial stage, some members of the committee will recall, was reversed by the Court of Appeal in the leading case in the issue, the *Buzzanga and Durocher* case, and I will turn to that in a moment.

As recently as three weeks ago, senior officials of my ministry, at a federal-provincial consultation on a number of key criminal law issues, reviewed once again the hate literature provisions of the code. Our view is once again expressed that in order for the provisions in question to be truly effective, amendments are required if we are to be able to use the criminal justice system to take effective steps against hate literature.

We pointed out, again on that occasion, that for effective prosecutions to be launched the significant lists of defences that were contained in section 281.2 of the code had to be reviewed and eliminated. Our ministry has supported the proposition that at the very least the statutory defences provided therein should be available to the accused only where he has satisfied the judge on the balance of probabilities as to the applicability of the defences.

At that meeting, we also invited the federal government to consider legislation analogous to the English Race Relations Act, which was amended in 1976 in order to cure problems that had existed under previous British legislation. Those problems are quite consistent with our problem and that is the very heavy onus that there is on the prosecution to prove the wilfulness. The British authorities stated that requirement really placed the police in a very impossible position. In fact, one of the terms that was employed was that it was an embarrassment to the police to ask them to enforce legislation in that form. The wilfulness aspect of the legislation was removed in 1976.

At the same time, I want to make it clear that much of the material that has been brought to our attention is clearly reprehensible, if not disgusting, and that no thoughtful or rational person would want to be associated with it. But the difficulty is in bringing this material, where we can identify the person or people who have circulated it, within the provisions of the Criminal Code.

As you know, the *Buzzanga and Durocher* case makes it clear that the crown must prove

beyond a reasonable doubt that the accused actually intended to wilfully promote hatred, in accordance with the law as outlined in that case. There are a number of difficulties with the present legislation and I would like to outline briefly some of those difficulties at the present time in this relatively technical area.

As I have already suggested, the major difficulty is the mental element required to be proven. The crown must prove beyond a reasonable doubt that the accused wilfully intended to promote hatred against the identifiable group, or prove beyond a reasonable doubt that the accused foresaw that the promotion of hatred against that group was certain, or morally certain, even though the statements communicated were communicated with an intent to achieve some other purpose. This proof of moral certainty, of course, presents a fairly significant obstacle. As Mr. Justice Martin said in the *Buzzanga and Durocher* case, "It is difficult to conclude what is inside a man's head." This case also stands for the proposition that the required intent is not satisfied by showing an intention to create furore, uproar or controversy.

12 noon

The second major obstacle is the specific defences that apply in addition to any other defences that may be applicable. If you look at the legislative history of this particular offence, a good deal of attention was given in Parliament to the fact of the curtailment of freedom of speech. For this reason, a number of specific defences were enumerated. They are briefly as follows.

Paragraph 281.2(3)(a) provides that no person shall be convicted of an offence under the section "if he establishes that the statements communicated were true." Many statements, although true, can be so weaved together and placed in a context to undoubtedly be capable of raising the inference that the accused wilfully intended to promote hatred by using them. Yet because the statements were true, the accused could not be convicted. Many statements, for example, were made in the context of the crucifixion of the founder of Christianity.

Paragraph 281.2(3)(b) provides that no one should be convicted if the individual, "in good faith . . . expressed or attempted to establish by argument an opinion upon a religious subject." Quite apart from the fact that the burden was probably on the crown to show that the accused does not fall within this section, the ground itself is very broad. The good faith element is subjective

and provides no protection at all against the fanatic. It goes without saying that opinion on a religious subject is very broad. In the past, an extremely high percentage of the offensive material that has been examined did, in fact, involve statements or opinions on a religious subject.

Paragraph 281.2(3)(c) provides that the accused shall not be convicted "if the statements were relevant to a subject of public interest, the discussion of which was for the public benefit, and if on reasonable grounds the accused believed them to be true." The difficulties with the accused on reasonable grounds believing the statements to be true are fairly obvious. There may be a real dispute about the truth of certain statements, but the accused may on reasonable grounds—for example, the misinformed writings of others—believe the statements to be true.

Paragraph 281.2(3)(d) provides that no accused shall be convicted if in good faith he intended to point out matters "tending to produce feelings of hatred towards an identifiable group," if he pointed them out for the purpose of removing hatred towards that group. While that was obviously a well-intended provision of the Criminal Code, our experience has demonstrated that an author can so word his writings to have the statements or communications fit within this proviso.

Again, the question of where the onus and burden lies is open but at least by virtue of subsection (a) one can infer that it is an element that the crown must negative. There are also arguments that will be made in the context now of the freedom of expression provisions in the new Charter of Rights.

We have also had some difficulty with the concept of "identifiable group." It could be argued that the definition is too restrictive. For example, we have examined literature where a strong argument could be made by the accused that, whatever his intent and whatever the effect of the statement or literature, the comments were directed solely to a certain segment of the racial or religious group. Even though the effect of the statements would tend to produce hatred against all portions of the group, it is the view of our law officers that in these circumstances the accused cannot successfully be prosecuted. Of course, the term "Zionist," which is quite broadly used in some of these disgraceful publications, is an example of this particular problem.

A fifth difficulty involves difficulties of proof in so far as the *actus reus* is concerned, and this

is not something that can be cured by legislation; it has to be dealt with on a day-to-day basis. Very often the material in the form of pamphlets or leaflets is distributed anonymously, and it is simply impossible to connect the material with any particular group or individual. Very often some of the material has been in circulation for 40 or 50 years. Tracing the information to particular organizations in those circumstances may not necessarily be difficult; the difficulty relates to singling out the specific members of the organization and those in fact involved in or responsible for the distribution as opposed to the organization as a whole.

I think many of the groups that have been appearing before the federal Parliament's committee on racism have recognized the difficulties of prosecution under the present provisions of the Criminal Code. I know, for example, that the Canadian Jewish Congress made the point recently before this parliamentary committee that the obstacles to successful prosecution are almost insurmountable, and I think it is important that those who are enthusiastic about prosecution should recognize or be aware of the fact that the groups that are most affected by some of this material have recognized very publicly the difficulty, if not impossibility, of prosecution.

It has also been suggested that we consider amending the Libel and Slander Act to permit civil action against hate propagandists by groups of persons victimized by such material. I made a similar proposal in August 1977 at the 1977 Couchiching conference. We recognized that it was a difficult concept to legislate and we recognized that it is not easy to draw the line between the need to protect groups from slanderous or racist diatribes and the need not to inhibit free speech and discussion, freedom of the press.

I made this proposal six years ago. We received a lot of criticism from some of our friends in the media and on editorial boards for making such a proposal, and I cannot recall any particular support on the other side of the House for that proposal at that time.

Mr. Renwick: As a matter of fact, you may have picked up the idea from me, because I raised it about 10 years ago, so you certainly can count on my support on the other side of the House.

Hon. Mr. McMurtry: It may be relevant then to mention the final point I wanted to make, and that is that I have retained the assistance of one of our very distinguished, erudite and thought-

ful citizens in the province to examine this difficult issue and make recommendations to me to propose legislative and other responses to the problem of group defamation.

Mr. Breithaupt: Might you inform us who that person is?

Hon. Mr. McMurtry: If you would like to know, it is Mr. Patrick Lawlor, QC.

Mr. Ruston: That reinforces the statement Mr. Renwick made.

Mr. Renwick: Had he been in the House, he might have supported it.

Hon. Mr. McMurtry: Yes, that's right.

12:10 p.m.

Mr. Breithaupt: It is interesting, Mr. Chairman—if the Attorney General is finished with his responsive comments—to see how all parties in the House are certainly seriously interested in the concerns he has raised. I would be the first to say that the Attorney General not only in his career in the Legislature but also in the practice of law has been a leader in this area and is recognized as such. My friend the member for Riverdale (Mr. Renwick) and I have also been concerned in our turn—he even longer than I—about this particular theme. Events in his own constituency are matched by some of the materials that have been provided to me from some of my own contacts, and so many members have been involved in this particular subject.

The Attorney General will recall that not only in the estimates for the Provincial Secretary for Justice but also in his own this year I spent considerable time bringing up to date the concerns we all have. Just this last week I noticed a further article that appeared setting out hearings and comments made before the federal parliamentary committee on racism, which underlined the continuing distribution of this material from Canadian sources—indeed, from sources that were referred to in those earlier comments and need not be repeated, some of which the Attorney General has reminded us of today.

We are told, at least as part of the comment made by the brief of the Canadian Jewish Congress before the parliamentary group, "Canada has earned the unenviable reputation in the Federal Republic of Germany as the major source of neo-Nazi materials entering that country." It is a most difficult and distressing area.

I recognize the balance that the Attorney General has to keep between freedom of expression and the duties to root out this hateful

attitude that still pervades the twisted minds of a few people within our society; it is often awkward to balance the disease and the cure. Yet the approach that has been taken is one that is worthy of support.

I am delighted to hear that our former colleague Patrick Lawlor has been called upon to put his immense energies and encyclopaedic mind to this theme. The only problem with Patrick is that occasionally when you ask him the time he will tell you how to make a watch. That may not be exactly what we want, but I am sure the minister as a fellow Irishman will be able to ride herd a bit on his loquacious approach and get him right back on track. He is a very happy choice to be given this task, and I congratulate the Attorney General on making that choice. I think the results will not only be eminently readable but will come to the root of these problems and suggest the kind of balance and approach I hope we will all be able to accept.

Hon. Mr. McMurtry: Thank you.

Mr. Renwick: Mr. Chairman, I believe this to be a somewhat related question, namely, the question of whether or not there are in Ontario, let alone in Canada, other alleged war criminals, for instance, against the Jewish community. Mr. Rauca has gone to trial in Germany after his arrest, detention and court proceedings here. Are there other instances of alleged war criminals in Ontario who are the subject of investigation who have come to the Attorney General's attention. I am not asking for names; I am asking for the extent and degree of the concern that has been expressed about war criminals or alleged war criminals in Canada.

Hon. Mr. McMurtry: We understand there are some ongoing investigations by the Royal Canadian Mounted Police with respect to the presence of war criminals. We have not been given particulars. The federal government has not shared any of this information with us.

Mr. Renwick: Or enlisted the assistance of—

Hon. Mr. McMurtry: Or enlisted the assistance of the Ontario Provincial Police, at least to the best of my knowledge.

Mr. Chairman: Are there any other comments on this particular aspect of hate literature from any of the other members?

Mr. Renwick: The obvious question is to ask whether there is any impetus for making amend-

ments that would make those sections of the code somewhat more reasonable from the point of view of enforcement.

Hon. Mr. McMurtry: I am optimistic that with the submissions we have been making, together with the activities of this parliamentary committee dealing with racism, there will be some momentum for the introduction of amendments this fall. There is no question that the parliamentary committee is an important platform for some of these groups to express publicly concerns about the inadequacies of existing provisions. I am relatively optimistic that this will encourage the federal government to introduce some amendments this fall. We have been given no such assurance, but—

Mr. Renwick: Have you made submissions to that committee?

Hon. Mr. McMurtry: No.

Mr. Renwick: No member of your ministry has?

Hon. Mr. McMurtry: No.

Mr. Renwick: Would that be helpful?

Hon. Mr. McMurtry: The committee has made some tentative request for us to appear before the committee and, to the best of my knowledge, I have indicated we will be quite prepared to do so when the committee holds hearings in Toronto. I do not believe they have held any hearings in Toronto yet.

Mr. Breithaupt: I thought I had seen some advertising, but I do not know what the exact dates are.

Hon. Mr. McMurtry: I heard several weeks ago that they are having some communication with the race relations division of the Ontario Human Rights Commission about whether they would be prepared to appear, which they will be prepared to do, and whether I would be prepared to appear before the committee. I indicated through that circuitous route, as no request had been made directly to me, that I would be quite prepared to appear.

Mr. Renwick: I would certainly urge you on your own initiative to do so because I think the question of the technical procedure or legal hurdles that are involved in that literature is not broadly known and is leading to very deep concern in the community about why prosecutions are not issued. It leads to the overtones that somebody is exercising some kind of extrajudicial judgement as to what should or should

not be done, and I think that is very bad in the community.

Your ministry probably knows more than any other ministry the actual legal problems involved, as you have expressed them here, and I think you could get a reasonable amount of publicity and provide an education to interested members of the public as to the problems in relation to this vexed question.

Hon. Mr. McMurtry: I think that is a very worthwhile suggestion. I must admit I had been expecting to hear from them, but in the absence of any communication, I agree with you, Mr. Renwick. We will make it known to the committee that we would like to address this particular subject.

Mr. Renwick: I think it would be most helpful.

Mr. Breithaupt: There is indeed that view that the failure to proceed is a certain acquiescence to some of the attitudes which may be shown by these creatures. The end result is that a clear exposition of the difficulties, and the need for more particularly framed legislation in very clear and definitive terms, would have a very positive impact on the committee members who will then, through their system, be faced with actual changes in the drafting of particular phrases within the legislation. I think you could have a very positive impact.

Hon Mr. McMurtry: Thank you. It is a very worthwhile suggestion.

Mr. Chairman: The time is about 20 minutes past the hour. Do you want to proceed or would you—

Hon. Mr. McMurtry: Well, I am in your hands.

Mr. Chairman: Gentlemen, shall we proceed until 12:30 p.m., or should we leave it here and then start tomorrow afternoon?

Mr. Renwick: Could you very briefly, in the few minutes that are remaining, bring us up to date on the result of your deputy's concerns and your concerns about Bill C-157 on the security service? Where does it now stand? Obviously, your ministry and the Ministry of the Solicitor General have spent a lot of time making known your views and making submissions about it. What is the response you have obtained? What do you think is now going to happen?

Hon. Mr. McMurtry: We have not been given any specific assurances from the federal government as to what course of action they are going to follow, other than what has been said

publicly; that is, the legislation at the very least has to be redrafted in certain areas, some of which have been unspecified, and the legislation will be brought back in a different form. We have spent a great deal of time and effort on this legislation.

I regret very much that part of the communication problem between ourselves and the federal government stems from a deep-seated resentment that is harboured by the federal government that provincial Attorneys General would be involved in this issue. I must admit the reaction of the federal government, the federal Solicitor General and Minister of Justice have astonished me, to put it as mildly as I can.

To me, it is indicative of a form of Bunker mentality that hardly gives me much confidence as to their ability to carry out their responsibilities. I hesitate to be as blunt as I am, but the response to my criticism—and you have been supplied with copies of the brief I gave to the Senate committee—the very intelligent response of the Minister of Justice was that because the Ministry of the Attorney General was being sued in the Susan Nelles case, that somehow should disentitle me from criticizing the federal legislation. That has been the extent of his public response. At the very least, it is childish, immature and hardly worthy of somebody who holds that office.

The lack of communication has been very significant. The Attorneys General had a fundamental responsibility to respond to this legislation because of our traditional responsibilities with respect to the rights of individual citizens within our province. The criticisms we have made have been shared by a number of other groups.

For example, nobody has ever accused the Canadian Bar Association of being a particularly reactionary group of individuals. Their submission to the Senate committee included most of our concerns. If you look at their submission, which is somewhat briefer, they cover the very concerns that we do. So we are talking about a number of organizations quite apart from the Canadian Civil Liberties Association which has been very active in this area.

I am rather disappointed that there has not been much interest demonstrated in sitting down with the provincial Attorneys General to deal with some of these issues in a coherent fashion. The federal authorities have chosen largely to characterize our opposition as being largely motivated by a turf or jurisdictional issue which, you will note if you read our brief, while

it is a concern ranks relatively low on the list of our other concerns.

I think there has been a sufficient amount of concern expressed publicly by a number of organizations which cannot be accused of having any sort of partisan motivation expressing fundamentally the same concerns the Attorneys General have. I am confident that there will be some significant redrafting of the legislation, but at this point we have no idea as to how extensive that will be.

Mr. Breithaupt: Was there any particular response to the communique which was issued following the meeting in Charlottetown on May 26, or any particular response to you from the Ontario members of Parliament that you circulated with your letter and that information?

Hon. Mr. McMurtry: I have sent a copy of our brief to the Senate committee. I think I have sent a copy of it to every member of the federal Parliament, all three parties. A number of the members of the federal caucus of the Conservative Party have indicated that they share my concerns. I spoke to the Solicitor General's critic, Mr. Ray Hnatyshyn, recently and he indicated that they were opposed to the present legislation, but they felt that it was premature to take any specific position until they saw what they believed would be a new bill later in the fall.

Mr. Breithaupt: Which might result from the effect of hearings of the Senate committee.

Hon. Mr. McMurtry: Yes. As you know, a number of people have appeared before the Senate committee and they expect a bill in a substantially different form; so the federal Progressive Conservative caucus felt it was unwise to expend too much energy debating the present bill when obviously it is going to have to come back in a different form.

I think it is fair to say that also amongst the critics of the legislation have been those who have been most closely identified with the McDonald commission. Professor Peter Russell is fairly scathing in some of his criticisms. Although I am not at liberty to identify the particular commissioner, one of the commissioners of the McDonald commission itself spoke to me privately and indicated that he personally shared the concern that the federal Solicitor General would attempt to create the impression the legislation was substantially following the recommendations of the McDonald commission when, in fact, there were so many

significant departures. For the federal Solicitor General to attempt to enclose the legislation in the cloak of the McDonald commission respectability was not something they felt was—he just had difficulty accepting their approach.

In any event, it has been a very vigorous debate. I am just disappointed that our federal colleagues have been reluctant to debate or discuss the issue on a more rational basis, particularly as we had indicated to the present Solicitor General at a federal-provincial justice meeting in late November or early December 1981 that they were embarking on a very difficult project in preparing legislation in this area.

We did not for a moment underestimate the difficulty of their challenge. For that reason, and given the obvious interest of the Attorneys General in some of these areas, while we recognized the responsibility of the federal government in matters of national security, in view of the obvious overlapping in some areas, we urged the federal government in November or early December 1981 to consult with the provinces prior to introducing the legislation. We made it very clear that we would make our senior legal experts available at any time to give any assistance or make any recommendations that might be helpful during the creation of this legislation.

From that meeting late in the year of 1981 until the introduction of the legislation, there was no consultation whatsoever. The federal Solicitor General participated in a bit of a charade of going around the country a week before the legislation was introduced supposedly to consult with provincial Attorneys General. Of course, there was no consultation at all. It was just a case of saying, "Look, this is generally what we are going to do. Thank you very much, nice to see you."

It is just an unhappy example of lack of what used to be referred to as co-operative federalism. We think that in the ministries of the Attorneys General across this country, leaving the political people aside, we have a lot of very talented people and a great deal of legal expertise which could have been very helpful, at least with some aspects of the legislation. But our desire to assist in any way we could was just simply ignored.

Mr. Chairman: Thank you, Mr. Minister.

The committee adjourned at 12:33 p.m.

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From the Ministry of the Attorney General:
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Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of the Attorney General

Third Session, 32nd Parliament

Thursday, October 13, 1983

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, October 13, 1983

The committee met at 3:41 p.m. in room 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

(continued)

Mr. Chairman: Gentlemen, I see a quorum. Minister, were you finished with your comments on Bill C-157?

Hon. Mr. McMurtry: Mr. Chairman, I think I had concluded my comments on Bill C-157, subject to any questions anybody might want to ask.

Mr. Renwick: Mr. Chairman, a new matter has just come up which I am sure the Attorney General will not be in a position to deal with today. I did hear this morning that the Supreme Court of Canada had ruled adversely to the government on the stay of proceedings question in Riddell and Dowson and the Buckbinder cases.

I wonder if perhaps next week some time, after you have had an opportunity to review the judgement, if it were convenient, we could have copies of the reasons. I would appreciate an opportunity, as I am sure my colleague would, to have a few minutes' discussion about it.

Mr. Breithaupt: It would be most helpful.

Hon. Mr. McMurtry: Yes. I just heard about it about 10 minutes ago.

Mr. Renwick: The information I had was that there were 19 pages of reasons and it was a unanimous decision.

Hon. Mr. McMurtry: The unanimous decision of the Ontario Court of Appeal went the opposite way.

Mr. Renwick: Yes.

Hon. Mr. McMurtry: I always thought very highly of the Ontario Court of Appeal.

Mr. Breithaupt: We could, possibly on Wednesday, spend a few moments on it, if it was practical to have a copy of the reasons by then; if not, perhaps at some later time, although I would have thought that the estimates might well be completed approximately by Wednesday.

Mr. Chairman: I believe we have somewhere in the neighbourhood of seven hours to go.

Hon. Mr. McMurtry: Are we sitting on Monday?

Mr. Chairman: No.

Mr. Renwick: I am certain Mr. Copeland will be waiting with bated breath for a reply to his letter to Mr. Roderick McLeod of October 9, 1981, which was to await the decision of the Supreme Court of Canada.

Hon. Mr. McMurtry: I think it is an issue that we would all be interested in discussing, and I am just as interested, needless to say, as anyone here in seeing the reasons for judgement. I would certainly expect we would have time to discuss the matter in estimates next week.

As soon as we get a copy of the judgement, we will circulate it to the members of the committee. We may have something by tomorrow morning, I am not sure.

Mr. Breithaupt: Even Monday would be quite satisfactory because the committee is not meeting again until Wednesday.

Hon. Mr. McMurtry: I thought I would add to your weekend reading.

Mr. Breithaupt: Yes, but it would give us something to do for next week.

Mr. Conway: I have been reading the Gallup poll myself.

Mr. Breithaupt: That does not take quite as long as 19 reasons.

Mr. Conway: You may be Minister of Justice for Canada.

Mr. Mitchell: Was that some optimism?

Mr. Renwick: I know that David Allen has his bag packed.

Mr. Chairman: We do not hear any denials.

Mr. Breithaupt: My colleague the member for Renfrew North (Mr. Conway) has a quick and incisive grasp of the obvious.

Hon. Mr. McMurtry: I just denied it to the Canadian Broadcasting Corp. 10 minutes ago.

On vote 1401, law officer of the crown program:

Mr. Chairman: We are still on vote 1401.

Mr. Breithaupt: There are a great variety of items, Mr. Chairman, that the Attorney General

might comment upon. I suppose a number of them will come up in other of the votes as we look at children's rights, the oaths administered to children, surrogate parenting and a variety of other things.

Perhaps we could take a moment. I would like to ask two brief questions. One is a general and administrative matter with respect to Bill 29, the Estates Administration Act, which received royal assent on May 26. Can the Attorney General advise us, since five months or so have gone by, whether he is now in a position to make the regulation designating the list of countries to which the term "foreign beneficiary" would refer?

If we have that, the bill has some usefulness possibly. Until that list is attended to by regulation we have a hope, certainly, without a completion or an opportunity to deal with the subject very much further.

Hon. Mr. McMurtry: Yes. I realize there has been some lapse of time. I indicated my view some time ago to our policy development people that I felt it should apply to all of the nations that are generally described as Iron Curtain countries. They were to advise me as to whether they saw any problems in that course of action. Quite frankly, with the Courts of Justice Act and a multitude of other problems, we have not finalized it. But I expect it will be finalized within the next two or three weeks at the outside.

The director of the policy division is away at the moment. He will be back on Monday and should be with us in estimates next week. We will do the best we can to advise you as to what our position will be before the estimates are concluded.

Mr. Breithaupt: Even if that is not possible, could I at least ask you to consider that when the regulation is prepared, in order that some broader publicity of it be given than might otherwise occur in the Ontario Gazette, you would take the opportunity perhaps to make a statement to the House at that point so as to bring up to date the public awareness of what the regulation contains? This might otherwise be somewhat scattered because not everyone gets a chance to read the Ontario Gazette.

Hon. Mr. McMurtry: Yes, I think it would be appropriate to make a statement to the House.

Mr. Conway: I love the Gazette. I find it interesting.

Mr. Breithaupt: Could I ask you about one

more particular issue? This is an administrative one.

Are you able to report any further on a matter that I had referred to you some time earlier, which is called the Karafile case? This dealt with a matter in the family court, an eviction that has occurred from the family home, and various other severe difficulties that have resulted because of the circumstances that have been brought to your attention and our attention in particular.

The last correspondence that I had was with Mr. Craig Perkins in the policy development division. I would appreciate if we could deal with that division under this vote, as to whether Mr. Perkins is able to bring us any further up to date from his earlier statement, involving the official guardian's office as well, that was made in late August.

I recognize it is difficult to be aware of the details of one particular case, but this one has developed quite a substantial history, not only in media interest, but also in the involvement of a number of other persons interested in the situation that has involved this family. Could you ask for a meeting, perhaps tomorrow morning if it is not inconvenient, so that Mr. Perkins could refresh himself on this case and bring us up to date on whether there is anything further that can be suggested to resolve some of the knotty problems that have arisen?

Hon. Mr. McMurtry: Yes. I have some general knowledge of this case. I am aware of the fact that one of my constituents, Mr. Edward O'Brien, who is here with us this afternoon, is very interested in this case. He has asked me questions about it in public meetings. I recall signing a letter as recently as last weekend to Mr. O'Brien. It is, certainly, one very unhappy family dispute that, like so many others, creates a lot of problems for anybody involved in the family or who has an interest in the family, as I understand Mr. O'Brien does.

Again bearing in mind that the Attorney General has a very limited role to play when it comes to litigation, as the member well knows, between private citizens, judging by my correspondence generally I know there is an exhortation in the minds of many people who get caught up in unhappy court battles of a civil nature that the Ministry of the Attorney General should somehow resolve the issue. This, of course, as the member well knows, is not within our mandate, other than to address the broader issues as to how the law may be improved, perhaps for example to avoid the many hard-

ships that undoubtedly are a part of this type of family litigation.

3:50 p.m.

We are sending a message to Mr. Perkins now and I hope he will be able to be with us tomorrow, because he will be more familiar than I am with some of the details. I know there has been correspondence over a period of months.

Mr. Breithaupt: I have a couple of other points that we might also refer to from my initial comments.

The Attorney General will recall that I made some general comment with respect to recent editorials concerning the backlog in the courts. I understand that in these last several weeks particularly, extra judges have been assigned to try to cut into the Supreme Court backlog in the Toronto scene and that really in much of the rest of the province the lists are virtually current, which is very encouraging.

Is the minister able to give us any more general information on that so we would know how many of these civil cases are finally being resolved? I recognize, of course, that many of these lists do have a tendency to move very quickly when the lawyers are suddenly told, "Tomorrow morning you are on," so that is a healthy sign in itself.

Hon. Mr. McMurtry: There was a rather interesting letter which some of you may have noticed in the Toronto Star this week, written by Mr. Norman Dyson, who is a lawyer known to me, a former Liberal candidate and a very fine gentleman.

Mr. Conway: He is not yet a judge?

Mr. Gillies: One of the few.

Hon. Mr. McMurtry: Maybe he cannot afford to be a judge; I do not know. I am not suggesting I agree with him, but he made the point as somebody who is very active in litigation in the Metropolitan Toronto community and perhaps elsewhere that he thought there were more than enough judges but too few lawyers.

I would like to read the letter into the record. I am not endorsing it as my opinion, just offering it as illustrative of the different viewpoints that are expressed in relation to this issue.

Mr. Conway: And I will tell Laura Legge, so you be careful.

Hon. Mr. McMurtry: Mr. Dyson writes: "I have been a trial lawyer for many years and have noticed a couple of things through, albeit at times bleary, eyes and ears.

"First, it has been my experience that if you are really ready for a trial you can get on almost immediately. I can't remember how many times I've been 30th or 40th on the Supreme Court list and have proceeded within days, so long as I am ready to go.

"Second, I am forever hearing from other counsel that they are being forced on when they are not ready. I have been the irritated victim of such pressure on more than a few occasions. After careful consideration of at least 10 minutes, I have concluded that we have too many judges and far too few lawyers.

"Norman Dyson, QC, Toronto."

Mr. Dyson's opinion may not be totally shared by the profession but it is an interesting viewpoint, coming as it does from somebody who has been active in the courts in this area for close to 25 years.

Last fall we brought in a number of county court judges from around the province to do a blitz on the county court criminal list, particularly the jury list, the assizes. Some noticeable reduction and impact was made on the backlog with respect to the county court criminal list, which probably, year in and year out, is our most serious problem in relation to the judicial district of York, where more than 50 per cent of the criminal cases in the province are dealt with outside of the county court level.

The result was that a number of the Supreme Court rooms, or courtrooms that were generally utilized by the Supreme Court, were given over to the county court for this purpose. The result, as I understand it, is that some modest backlog developed with respect to the Supreme Court civil list and the blitz that is going on this fall hopes to address it.

We do have regular meetings, as the member knows, of a committee that is known as the Bench and Bar Council, presided over by Chief Justice Howland and made up of senior representatives of all the courts, the Ministry of the Attorney General, of course, and members of the profession.

Mr. Conway: The Bench and Bar Council?

Hon. Mr. McMurtry: The Bench and Bar Council. Sean, it is something you would enjoy. I might even attempt to use my good offices to get you invited to one of the meetings, knowing of your great interest in the bench and bar.

Mr. Conway: I think I have been there, but it was in a hotel.

Hon. Mr. McMurtry: It may be possible to provide members with copies of the minutes of

the last Bench and Bar meeting, which will give an overview. Do you remember, Mr. Campbell, when the last meeting was?

Mr. Campbell: It was around September 15, Mr. Chairman, and on that date, as I understand it, we received a pretty complete rundown, as we do at every meeting, of the status of the work load in every court: Supreme, county, family, criminal and small claims. About every two or two-and-a-half months we get another complete update, and we will be glad to supply the one we received around the middle of September.

Mr. Breithaupt: That would be helpful. I was more generally interested in the overview and the minister's opinion of how some of these backlogs have been digested. I suppose that since one has not seen very many editorials recently, it is thought the system is more or less keeping current and that at least those cases that are somewhat long in the tubes have been cleared up, which would be my particular concern.

Hon. Mr. McMurtry: I would be the last one to suggest for a moment that we have by any means solved the problem of trial delays. As we all know, trial delays have been the subject of commentary from earliest recorded history. It is a problem that continues to occupy a good deal of our time. We are by no means satisfied with the current situation, because there are unfortunate delays in many cases. But I think in most areas of the province it is not a significant problem. In certain areas, most notably probably Toronto, Hamilton, Windsor and Ottawa, we do have perennial problems.

We know we are going to have a new courthouse in Ottawa in the not very distant future; we currently have plans under way to enlarge the courthouse on University Avenue to provide some additional courtrooms there. But the minutes of this meeting will provide a general rundown.

My joining the government eight years ago happily or unhappily coincided with the commencement of the restraint program launched by Mr. McKeough and the Premier (Mr. Davis) in 1975. Notwithstanding that, we have increased the judicial resources in the courtrooms quite considerably during that period.

4 p.m.

One of our major problems continues to be not so much too few judges—although people will make the argument, and judicial resources have to be increased—or too few courtrooms. That is a problem in certain areas and that is

why we are looking for additional court space, for example, in Metropolitan Toronto. However, the major problem, which I know we have gone through this time and time again, is to develop better systems for more effective use of the resources that are available.

Some of you who have been here longer than I have will recall the projects that were started—first of all, the law reform report around 1972, which led to the central west project legislation in 1974 and which was generally geared to attempting to find ways of making more effective utilization of existing resources.

While some modest achievements have been made during that time, the problem is still there simply because of the impossibility of predicting the course of any particular litigation and also the fact, as I have said on other occasions, that busy lawyers do find themselves, even with the best intentions in the world, scheduled to be in different courts at the same time.

Mr. Conway: And sometimes in Parliament.

Hon. Mr. McMurtry: As a result, we do not have as effective courtroom utilization as we should have. Cases often are adjourned, for example, simply because of the unavailability of a lawyer who is caught in the midst of a trial in another courtroom or sometimes because of the unavailability of witnesses. A system with so many human factors is never going to operate with a maximum degree of efficiency.

We will obtain a copy of the September minutes of the Bench and Bar Council, which I think will provide a pretty good overview from the standpoint of the judiciary and the practising bar.

Mr. Chairman: Is that all, Mr. Breithaupt?

Mr. Breithaupt: There are many other issues. I would just turn to one and that is the recent report of Judge Rosalie Abella on access to legal services by the disabled. Perhaps the Attorney General can tell us what has been the response to the report and whether we can expect a variety of the many recommendations; as I recall, there were 100 recommendations.

Can we expect the implementation and the procedure that might occur as a variety of those points that have been raised are taken under advisement by the government?

Hon. Mr. McMurtry: I think it is a very comprehensive report. As Attorney General, I must obviously be interested, but I became more personally interested perhaps for two reasons, one of which is that we have a clinic which deals with the problems of the handi-

capped in the great riding of Eglinton and, secondly, I have a son at university who has spent the last seven summers of his life working with handicapped young people. This was an issue which troubled me, and for that reason I asked Judge Abella to take on this assignment. I think she has produced a very comprehensive and very important report.

Obviously, many of the recommendations have fairly significant funding implications. It is just too early to indicate how quickly we are going to be able to proceed with a number of the recommendations. On the other side of the coin, I cannot think of any recommendations at the moment I would reject. Most of the recommendations fall within the area of proceeding when it is financially possible to do so. I think this report will be an important guide for governments for some time to come, not just in this province but in other provinces.

I have asked my policy division staff for their response to the recommendations. That has not yet been forthcoming, but it is something we will have an opportunity to talk about in the weeks and months ahead. I appreciate that it is particularly topical today because of the group that is meeting with some of my colleagues at this very moment. I had a brief visit with them just before I came into estimates this afternoon, but I am not in a position to respond specifically at this time to the report.

Mr. Breithaupt: I was interested, particularly since the report was made to the Attorney General, and I wanted to know what would happen with the recommendations once they had been made. I understand that one of the obligations of your policy development group will be to review these and, I suppose, categorize them into those that might be inexpensively and rather quickly put into effect and those for which a goodly amount of money might be required. For example, complete access to every facility may be a worthy goal but a very large expense, unfortunately.

Will the people in your policy division attempt to sort through these recommendations and goad you from time to time for the opportunity to implement them?

Hon. Mr. McMurtry: I may even be goading them.

Mr. Breithaupt: You might be the goader or the goadee in all this.

Hon. Mr. McMurtry: I think you are quite right. Part of the process will be to prioritize the recommendations to determine which we can

proceed with more quickly. That certainly will be an important part of the process. As this study emanated as a result of my own personal interest in the matter, I assure you I am not going to allow it simply to gather dust.

Mr. Renwick: I just have two or three matters to deal with. One of them is access to legal services by the disabled. I do not pretend I have read the report in detail, but I have certainly read the summary of recommendations. I appreciate the Attorney General's initiative in developing the report and having it available for us. But it is more than that.

I happen to have the address that Harvey Savage gave at the St. Lawrence Centre on April 19 in the symposium on that matter. He draws attention to the fact that in April 1985 article 15 of the charter will come into effect. He said: "This holds new and exciting possibilities for handicapped persons. The article guarantees that every individual is equal before and under the law and has the right to equal protection and equal benefit of the law."

4:10 p.m.

It seems to me it is very important that this be given priority so that when the day comes, and it is only 18 months away, we can look at this report and say, "Yes, not only is it a good report and not only does it have the personal interest of the Attorney General, but it now complies with the constitution of the country." Many of the recommendations relate directly to that particular section of the Charter of Rights and Freedoms.

Hon. Mr. McMurtry: That is obviously a very valid point.

Mr. Renwick: Second, can you make any comment about the state of the Office of the Ombudsman and the state of the Ombudsman Act? Are there going to be revisions? From time to time there have been a number of suggested amendments to the Ombudsman Act, and the office is now vacant.

It is an institution that has had some trials and tribulations, but it is an institution that many of us feel very strongly about. I wonder whether there is any comment you can make about when the office will be filled and whether there is any intention on your part to introduce amendments to the Ombudsman Act. I assume that if they were introduced they would come from your ministry.

Hon. Mr. McMurtry: Yes. As to the first question, I do not know. I am naturally very interested in who the Premier is going to

recommend to cabinet and to the opposition leaders to be the new Ombudsman, having been somewhat involved in the process with respect to the first two Ombudsmen. I have not heard the Premier's views in recent weeks. So I am as interested as anyone here in what his thoughts are at the moment.

Mr. Renwick: I certainly have no thoughts about the matter. I am more concerned objectively about the need for the office to be filled.

Hon. Mr. McMurtry: As to the amendments, I know there were a number of meetings in the last two or three years between members of the Ombudsman's legal staff. Mr. Brian Goodman, who is now with the Ministry of Labour, was involved in this process, and Julian Polika had a number of meetings. I cannot tell you at the moment whether any consensus was reached.

I do not think the amendments really got past the discussion stage. To my knowledge, the Ombudsman never indicated to me directly that any of these amendments were required in the immediate future. Certainly, with the appointment of a new Ombudsman, I expect this is going to be an issue we will be dealing with. Mr. Polika, who is known to most of you, is most involved in this process. I will try to get a report from him for you for next week.

Mr. Renwick: That would be helpful. To my knowledge, there have been, for practical purposes, no amendments of any significance.

Hon. Mr. McMurtry: I do not recall, quite frankly, any amendments.

Mr. Renwick: No, but there have been a number spoken about from time to time and recommendations by the select committee on the Ombudsman about amendments. I think a report on that would be helpful in a form that could perhaps be made available to the chairman of the Ombudsman's committee as well.

Hon. Mr. McMurtry: Yes.

Mr. Renwick: The other thing is that I was away for a considerable period this summer and came back quite relaxed. Within about three days the adrenalin began to flow.

I was watching Elwy Yost's *Magic Shadows* one evening last week when they were playing in a five-part series the movie *Boomerang*. That was about the murder of a priest in Connecticut in 1923 that was made into quite a classic movie. The attorney involved was Homer Cummings, who later became Attorney General of the United States. I got that information from Elwy Yost on his program.

Mr. Breithaupt: We got it from the last frame of the movie.

Mr. Renwick: In any event, on Friday in the last episode I happened to watch, one of your agents, Stephen Leggett, was his guest on the program.

Mr. Breithaupt: I enjoyed his comments.

Mr. Renwick: As I say, the adrenalin ran very quickly. Mr. Leggett said—and not facetiously or in a joking mood—that from his role as a crown a person was guilty when he was arrested and “our job is simply whether or not we can prove it.” He repeated that comment a little later in the show.

I oscillate between taking those remarks by your agent seriously or by saying it is a turn of phrase. He is a respected crown. I would be very concerned if there is any suggestion within the crown attorney's office, because of the nature of their work and their connection with the police and so on, that they lose sight of the presumption in the charter of innocence until proven guilty.

Mr. Breithaupt: I think it would be worth while for you to take a look at that for your own interest. The general theme, as I gathered it, was that if he was not guilty he would not be charged. I was quite surprised seeing him do that.

Mr. Renwick: I am delighted my colleague saw it.

Mr. Breithaupt: I was quite surprised at the way it all came out. I think it is worth a modest review.

Hon. Mr. McMurtry: I am sure Mr. Leggett must have been facetious. He has rather an interesting sense of humour and sometimes he expresses himself in a way that—

Mr. Conway: So does James Watt.

Hon. Mr. McMurtry: Perhaps it might create a misunderstanding. That is certainly not the view of the ministry. I am sure it is really not Mr. Leggett's personal view.

Mr. Breithaupt: I would certainly hope not.

Mr. Conway: It seems exceptional, if these reports are accurate, that anybody of that standing—

Hon. Mr. McMurtry: To illustrate why I am sure he was not serious, Mr. Leggett himself over the many years he has served as a crown attorney would have withdrawn a large number of charges I am sure, simply on the basis that he was not satisfied there was sufficient evidence to go to trial.

The fact that a police officer lays a charge simply on the basis that he or she has reasonable and probable grounds does not necessarily mean the crown attorney is always going to agree. I am sure many of us here have had the experience where many charges are withdrawn simply because of a conscientious crown attorney. I think the vast majority of crown attorneys are very conscientious if they have decided there is not sufficient evidence to proceed.

Certainly, crown attorneys in this province believe very strongly in the presumption of innocence and that their opinion as to guilt or innocence is not particularly relevant. It is a matter of whether there is evidence upon which a court can be satisfied of the guilt beyond a reasonable doubt.

Guilt or innocence is a matter for the court. It is up to the crown attorneys to proceed with the case where, in their view, there is sufficient evidence to warrant a trial. It is up to them to suggest a conviction be registered if there is sufficient evidence that in their professional view should satisfy a court that the guilt has been demonstrated beyond a reasonable doubt.

I would be very disappointed if I ever heard any crown attorney express his or her own opinion as to the guilt or innocence of the accused, other than simply to refer to whether or not the evidence should, in his or her professional view, support a conviction.

4:20 p.m.

Mr. Conway: I have not seen the program, but I wonder if you are prepared to give an undertaking to have a look at it and have a chat with Mr. Leggett.

Hon. Mr. McMurtry: I will certainly do what I can to review what was said on the program. As to whether it will be necessary to have a chat with Mr. Leggett or not, I do not know. In fairness to him, I would like at least to see what he is purported to have said.

Mr. Renwick: At the very best it was an unhappy turn of phrase and at the very worst it might have reflected an attitude which cannot be shared by the Attorney General or anyone else—

Interjection: Certainly not.

Mr. Renwick: —not only in the tradition of the legal system but in the principle of the new charter. I am not trying to cause Mr. Leggett any difficulty, but I do wish you would look at it. I am a great supporter of educational television, Channel 19 and Elwy Yost and the intense enthusiasm he brings to it.

Mr. Breithaupt: That is because you remember most of the movies when they were—

Mr. Conway: That is personal.

Mr. Breithaupt: You saw them first run; that is the problem. The rest of us are enjoying them for the first time now.

Mr. Renwick: But I am very pleased my colleague the member for Kitchener saw it as well because it was a very stark statement.

Mr. Conway: I am sure his communications adviser can convince him—

Mr. Chairman: Are you through, Mr. Renwick?

Mr. Renwick: On item 1, the Attorney General's office itself, I have only one further request. I had put on the order paper a request that the Minister of Consumer and Commercial Relations (Mr. Elgie) table in the House a copy of the report of the Ontario Securities Commission in the Norcen Energy matter. I also asked for a copy of the submission made by your law officers to the Ontario Securities Commission in connection with the Norcen Energy/Conrad Black matter.

The response to that question was tabled in the House the day before yesterday, refusing to table the report of the investigators. Is it possible that I could have a copy of the submission of your law officers to the Ontario Securities Commission in that matter? I have seen the report of the investigators and I am not terribly concerned about that because I know its contents, but I would very much like to have a copy of your submission to the commission.

Hon. Mr. McMurtry: There was one issue I think we wanted to deal with that is pertinent to your question. We asked Mr. Harry Black, who is our senior counsel most knowledgeable about the matter, to review the estimates as they pertain to Norcen and particularly in relation to the questions you asked, Mr. Renwick. There is something we were going to bring to your attention.

Mr. Black refers to a question asked by you: "Were the investigating officers of the OSC at the time they made their submission to the commission aware of the opinion of your crown law officers with respect to the misleading nature of the issuer bid circular?" Mr. Black goes on to say, "I think, notwithstanding that, the Attorney General replies, 'To the best of my knowledge the commission investigators would have been aware of that, yes.'"

Mr. Black points out that, contrary to what I believe, that was not so. His report to the Deputy Attorney General states, "The investi-

gative counsel from the commission would not have been aware of any position taken by me with respect to a prosecution under the Securities Act at the time when they wrote their report." To emphasize the fact, I focused almost entirely on possible Criminal Code violations—again, because this was from my point of view a criminal investigation.

I was of the view that sufficient grounds existed to warrant the institution of such proceedings and made that view known to the commission itself on April 9 and April 12. That view would not have been expressed by me prior to that time. On page 13, Mr. Renwick states: "There is absolutely no reference in the investigative officer's report of the commission to the opinion of the crown law officers." In view of what I have said, I would not think that any such view should be expected.

Mr. Campbell is more knowledgeable on some of the details than I am. To my knowledge, the submissions made by Mr. Black to the commission were made directly to members of the commission and were made orally. I am not aware of any written submission.

Mr. Renwick: Of any written submission.

Hon. Mr. McMurtry: No. But Mr. Campbell, as I say, is more knowledgeable of all the details than I am.

Mr. Campbell: That is correct. Crown law officers met with members of the commission on April 9. That was the Saturday preceding the Tuesday on which the limitation period expired. There was a further meeting on April 12 itself. I recall the first formal contact with the commission on that was a call from me to the commission at some point on the Friday afternoon. We received the investigative report on, I think, the Thursday beforehand.

It was only during that relatively short period of time that we were addressing ourselves to a sharp focus on whether or not there was, in our view, basis for a prosecution under the Securities Act itself. Until that time our focus had been very much on the existence or nonexistence of a basis for a criminal prosecution. There were no written submissions of which I am aware.

The question had arisen before as to the release of one particular document which I think was whether or not the confidential investigation report should be released. The crown law officers examined the matter and, for a number of reasons, recommended to the Attorney General that it would not be appropriate for the investigation report itself to be released.

There were a number of reasons in law and policy for that, upon which we could expand if you would like us to.

4:30 p.m.

Mr. Renwick: The sequence of events then was that the commission considered the report of the investigators and made its initial decision that it would not recommend to the minister that any action be taken. That information came to your ministry from the commission or from the ministry. I do not know what that missing link was as to what triggered your ministry to take the initiative to ask the commission to review the decision.

Mr. Campbell: It came to me from Mr. Black, and it came to Mr. Black from some servant of the commission. I could check on who it was. I do not know who it was, but it was a servant of the commission who informed him, as I understand it, as to what the decision of the commission had been.

Mr. Renwick: I will undoubtedly raise this matter when the Ontario Securities Commission is before us in the estimates at some point, so I am not trying to pursue what is obviously a closed book as far as your ministry is concerned.

It raised, however, one very serious question in my mind as to whether there should be a situation in this province where the crown law officers of the Attorney General are of the opinion that a prosecution should be undertaken or a charge laid under the matter and to find that, simply because of the structure of the ministries and the way in which the commission relates to the Minister of Consumer and Commercial Relations (Mr. Elgie), you were, in fact, precluded from taking your own initiative and laying the charge under the Securities Act, even though your law officers had been engaged over a long period of time, true, principally on the question of the criminal law investigation, but obviously having to be totally aware of the nature of the securities law in coming to any conclusion about the criminal law.

It seemed to me to be passing strange that the chief law officer of the crown was prevented by a statute of the province from really being in a position to lay such a charge.

Hon. Mr. McMurtry: As I recall a little bit of the history of the legislation, that originated in its present form as a result of the Kimber report. I know you will be quite familiar with that report, Mr. Renwick. That indicated that this was essentially a regulatory statute.

The reason for the consent of the Minister of

Consumer and Commercial Relations being required was the view that this was a very special type of legislation that was developed and created to regulate a highly specialized industry and that breaches of this legislation perhaps would be treated differently from breaches of other provincial legislation, inasmuch as one of the key considerations, as has been pointed out, was what was in the best interests of the proper regulation of the securities industry.

The Ontario Securities Commission was established to advise the minister, given its expertise, of what was in the best interests of the securities industry so far as the proper regulation thereof was concerned.

What I have attempted to point out is that although our law officers may be of the view that looking at it from their standpoint a *prima facie* breach has occurred, the legislation never contemplated, in my respectful view, that a *prima facie* breach would lead automatically to a prosecution. In that respect, there are certain analogies in the criminal law which are well known to you.

I think, for example, of the statement of Lord Shawcross that is referred to in John Edwards's work on law officers of the crown, where he states that even in a criminal prosecution, there is no greater nonsense than the suggestion that merely because, as he put it, there is, in terms expressed by lawyers, a case, that a criminal prosecution follows automatically.

Mr. Renwick: I understand that, and we have your statement.

Hon. Mr. McMurtry: I think our statement with respect to the prosecutorial discretion in the case involving the former Solicitor General of Canada, if I do say so, is a very good statement on the subject and has been incorporated in a number of criminal law courses that are given in our law schools.

However, the analogy I am drawing is that when it comes to exercising the prosecutorial discretion, the responsibility of law officers of the crown is to determine what is in the public interest. The securities legislation is created in such a way as to determine what is in the best interest of the proper regulation of the securities industry. It was envisaged by the Legislature that the Minister of Consumer and Commercial Relations would be in the best position to make that judgement on the advice of the securities commission.

We are talking about a distinct piece of

legislation requiring a particular degree of expertise, in a particular area of activity, that is not held by law officers of the crown generally because of the specialized area with which they are dealing. So while our law officers were of the view that a *prima facie* breach had taken place, they would readily concede that when it came to the proper regulation of the securities industry, they were not possessed of the greater degree of expertise as to what would be in the interest of that industry.

The legislation requires the consent of the Minister of Consumer and Commercial Relations and, given the history and the regulatory nature of the legislation, I would not recommend any amendment to that legislation or any process that would allow the senior law officer of the crown to overrule another minister who has a particular responsibility in a highly specialized sphere of commercial activity.

Mr. Renwick: I do not want to labour this too long, but you make a second distinction. In fact, the securities commission has no prosecutorial discretion. Its job, under the statute, is that if there are reasonable and probable grounds to believe that there is either an offence under the Criminal Code or an offence under the Securities Act, to make its recommendation to the minister; the minister then must consent. We are not talking about a prosecutorial discretion, because the securities commission does not have any.

Hon. Mr. McMurtry: I do not want to quibble with you, Mr. Renwick. I see it as a form of prosecutorial discretion.

Mr. Renwick: As I say, you and I could argue about that point. I do not think the statute allows that interpretation.

Let me pose this case as to why I think there is an anomaly that should be looked at. It deals not only with the Securities Act but also with the Criminal Code. It states that if there is a proper investigation, a formal investigation under the Securities Act, by which the securities commission decides there are reasonable and probable grounds to believe that there has been an offence under the Criminal Code, then it is obligated to go to the minister on the matter. If the minister declines to give his consent, it is one area of the administration of the criminal law of this province that is taken out of your jurisdiction. I find that conflicts with my particular view.

4:40 p.m.

Hon. Mr. McMurtry: I have difficulty agreeing with you that we are talking about the administration of criminal law.

Mr. Renwick: It is. The Securities Act speaks specifically and very clearly in that section, not just about breaches of the Securities Act but about breaches of the Criminal Code. All I am asking you to do is to look at it, and perhaps you and I could discuss it at another time without labouring it here.

If it had been the opinion of the investigation that a breach of the criminal law had occurred, and the report had gone to the commission and the commission purported to exercise something called its prosecutorial discretion to accept your lenient view of what the statute said—

Hon. Mr. McMurtry: That would be a quite different matter.

Mr. Renwick: —and had not done it, and it had been your law officers going to the commission to say, “Look, we think a breach of the criminal law has taken place”—

Hon. Mr. McMurtry: They would not have had to go to the commission.

Mr. Renwick: On the analogy to the securities commission law and the way this has been dealt with, I think there is a good reason to believe that you are precluded from enforcing the criminal law. If you are precluded from enforcing the criminal law, I have serious reservations about that. If you are not precluded from enforcing the criminal law, using the same section of the Securities Act, I do not know how, in logic, you can come to the view that you are precluded from enforcing the Securities Act.

Hon. Mr. McMurtry: Except for the fact that the Securities Act, on the one hand, requires the consent of the minister with the responsibility of administering that act and our law officers of the crown had been of the view that a criminal offence had been committed; and if that was a view that was shared by the investigating police officers, for example, the criminal charge would have been laid without the involvement of the securities commission.

When we are looking at what is an issue of what is in the public interest, that does not preclude the securities commission from expressing an opinion, nor would it preclude anybody else from expressing an opinion.

Mr. Renwick: My view is that you are not precluded from laying the charge under the Securities Act, just as you would not be precluded, at least I trust you would not be

precluded, from laying a charge under the Criminal Code, regardless of what the Minister of Consumer and Commercial Relations or the commission, with great respect, might do on the matter.

It is that anomaly that really bothers me. Either you are precluded from both, because of the nature of that legislation, in which case in my view it should be changed, or it is still open to you on your own initiative, because it is a breach of a provincial law, to take the initiative and to lay the charge rather than to be bound by the period of limitation.

Hon. Mr. McMurtry: Notwithstanding the requirement in the statute that the consent of the minister—

Mr. Renwick: Yes, because it is the identical requirement if the investigator's report had come to the conclusion that it was not only a prima facie case of a breach of the Securities Act but also said, “and there is in our opinion a prima facie case for breach of the Criminal Code.” The section covers both statutes. It covers both the Criminal Code and the Securities Act.

Hon. Mr. McMurtry: As I have indicated, that is not quite the way I read it. In any event, I appreciate the point you are making and it is something that we can pursue. I will take another look at it.

Mr. Renwick: It would be worth looking at.

Hon. Mr. McMurtry: Yes.

Mr. Breithaupt: One general theme that remains for me with respect to some more particularity is the matter of justice compensation, in particular for those who have been found not guilty of a variety of offences but who may have suffered other damages.

I realize that the Attorney General may not be able to say too much on this particular theme because of the matters before the court. Perhaps you could at least bring us up to date on the result with respect to immunity for the Attorney General from civil actions, which decision was given by Mr. Justice Patrick Galligan. I understand that matter is appealed.

Hon. Mr. McMurtry: That is my understanding.

Mr. Breithaupt: If you could just advise us where it stands, then we will know what—

Hon. Mr. McMurtry: I assume it has been appealed. Mr. Sopinka stated that he was appealing it. I have not actually seen the notice of appeal. We will find out. I assume a notice of

appeal has been served. We will perhaps be able to advise you tomorrow morning.

Mr. Breithaupt: I had understood it was going to be. We had Mr. Levy's lengthy article in the *Toronto Star* on the subject. I was interested, not to review the merits at this point or to interfere in that regard, but rather just to know what was happening and, if the notice of appeal had been served, what was the time expectation within which this matter might be further reviewed.

Hon. Mr. McMurtry: I will try to obtain some up-to-date information for you.

Mr. Chairman: Minister, earlier on in estimates one of the concerns that one of the opposition critics brought up was surrogate parenting. I was interested in the position you are taking, specifically in regard to the rent-a-womb concept.

Hon. Mr. McMurtry: I understand that the report of the Ontario Law Reform Commission will be available next spring. As you know, some publicity was given to my reference to the law reform commission in order to give any interested persons an opportunity to make submissions. I am advised that 36 briefs submitted to the commission as of June 1983 are being considered.

I have just been handed a copy of a recent letter from the chairman dated October 3. It is not a lengthy letter. Perhaps I could read it into the record.

Mr. Breithaupt: That would be appreciated, Mr. Chairman. That was the one other item I wanted to discuss in this vote. If you wish to go ahead and bring us up to date on that theme, I think we could then, as far as I am concerned, carry this vote.

Hon. Mr. McMurtry: The letter to me from the chairman of the law reform commission dated October 3 of this year reads as follows:

"Dear Mr. Attorney:

"On November 5, 1982, you referred to the Ontario Law Reform Commission a project on human artificial insemination and related matters. Since that date the commission has been most active on the project, and I am writing to tell you the steps that have been taken.

"(a) At its meeting on November 17, 1982, the commission afforded the project the highest priority and determined that work on the project should commence as soon as possible;

"(b) Professor Bernard M. Dickens was retained as project consultant, and the commission reviewed and approved a research design and

an amended research design, prepared by Professor Dickens;

"(c) In view of the social importance of the project, it was decided to place an announcement, containing the terms of reference and inviting the submission of briefs, in each daily newspaper published in the province and in the *Ontario Reports*;

"In addition, a copy of the announcement was circulated to a broad group of persons and bodies in Ontario that the commission felt might be interested in its research, including the following: religious organizations; hospitals; medical schools; children's aid societies; the College of Physicians and Surgeons of Ontario; the College of Family Physicians of Canada; the Ontario branch of the Canadian Bar Association. The commission has received some 35 briefs submitted both by organizations and by individual citizens;

"(d) The commission has appointed an advisory board to assist it in the many difficult and sensitive decisions that it will have to make in the course of the project;

"The advisory board has met on three occasions and further meetings are planned;

"(e) The commission has been in correspondence with various agencies in the United Kingdom and Australia that are involved in research in areas that fall within its terms of reference;

"(f) The commission has also been in correspondence with various jurisdictions in the United States of America that have been active in this area.

"(g) A meeting has been held with medical practitioners, from across Ontario, who specialize in human artificial insemination.

"(h) A meeting is scheduled of parties from across Canada, who are either involved with the techniques of in vitro fertilization and embryo transplantation, or who intend to engage in these techniques;

4:50 p.m.

"(i) Research, undertaken both by the commission's legal staff and also under contract, has been ongoing on the project since last year. It is anticipated that the commission will commence its review of research material during its November meeting. The first topic to be reviewed will be that of human artificial insemination.

"I send forthwith the following material"—and then there is copy of the announcement, lists of the agencies they have been in contact with and members of the advisory board, etc.

It appears this has been given a very high

priority by the commission, which is obviously undertaking its mandate with a considerable degree of enthusiasm. It is a difficult mandate, but they are obviously approaching it in a very comprehensive fashion and I hope we will have a report next spring. That is what is anticipated.

If any of you are interested in the members of the advisory board, the religious organizations they have communicated with directly, the academies of medicine or other agencies of other jurisdictions, I would be happy to provide that information for you.

Mr. Renwick: Mr. Chairman, I do not have any further questions on items 1 or 2 of vote 1401, but I would like to ask a couple of questions on items 3 and 4.

Does the work of the policy development division of your ministry lend itself to letting us have an up-to-date statement of the policy areas under consideration? Does it function in that way?

For example, I am interested in knowing what has happened to what was up front and centre a while back—the Ontario Law Reform Commission reported on it—about warranties under the Sale of Goods Act. That is now a long time ago and it seems to have disappeared. The fashion may have disappeared, but surely it is time some consideration was given to the Sale of Goods Act.

I do not know whether the policy development division is working on that area. If it is possible, I would be interested in having a list as of the end of September of the areas it is working on because much of it relates to the work that has come from the law reform commission.

Hon. Mr. McMurtry: The director of the policy development division, Mr. Douglas Ewart, will be back next week and he will be able to give us a list of projects that are being dealt with. I have not seen a list in recent months. The last time I did I guess was at the end of the spring. It was a very significant list, particularly considering the human resources we have available.

Mr. Breithaupt: Following up on that one point, Mr. Chairman, can the Attorney General speak to the connection that would occur between his policy development group and that within the Provincial Secretariat for Justice? Having worn both hats on occasion, is there a co-ordination between those two groups? Do the personnel work together?

Are there co-operations so that with the scarce resources and the numbers of individuals

who are available to look at this great variety of topics we are assured of no duplication of effort and the best results possible from the various themes that are being addressed? I recognize that many of these themes will come from reports of the Ontario Law Reform Commission, but, of course, they come from a variety of other sources as well.

Do we have a sharing of topics or of priorities so that we are keeping a balance and doing for the general policy field things that will not be duplicated strictly within the responsibility of the Attorney General's ministry?

Hon. Mr. McMurtry: Of course, any policy initiatives that are going to lead to legislation in our policy fields, as the member knows, are reviewed by the policy secretariats for their comment. To the best of my knowledge the policy secretariat for Justice does not contain any lawyers, so they would not be dealing with the policy matters in the same terms as our lawyers in the policy division of the Ministry of the Attorney General.

Mr. Breithaupt: They have 10 people whom one might classify, as the minister has, as professionals, so I presume that most if not all of them are lawyers; and there are six clerical staff. That is now reduced from those 16 in the 1982-83 estimates to 13 persons in the 1983-84 estimates. The end result is, of course, that there is not a generous number of people who can be involved in this particular area, and I am sure it takes a certain kind of specialist to develop themes and actually turn reports into legislation.

I just have this concern as to how the resources are being used. I am not presuming a misuse in any way, I just do not know about this and I am attempting to find out how this area is co-ordinated not only within the minister's own responsibility but also in that overview that the secretariat, I have always presumed, was to take of general legislation in the policy field.

Hon. Mr. McMurtry: The responsibility for giving legal advice to the government is the responsibility of the Ministry of the Attorney General and is not, quite frankly, a responsibility that really can be shared with any other ministry; so, as I understand it, the policy development branch was developed with that basic principle in mind.

Mr. Breithaupt: But the policy development is particularly with respect to the advice function as opposed to the development of general

policy, if the use of that word would be a broader one in that context.

Hon. Mr. McMurtry: There are certain responsibilities that may be given to a secretariat from time to time; for example, freedom of information was the responsibility of that policy secretariat. But generally speaking, any policy that is going to lead to legislation is going to come from the Ministry of the Attorney General. There may be initiatives that the policy secretariat will be interested in. They are obviously interested, as a number of ministries are, in victims of crime, initiatives that might be taken in areas such as that, which do not require specific legislation or legal opinions.

Perhaps the Deputy Attorney General would like to add to what I have said, because I think he has a better knowledge—in fact, I know he has a better knowledge—than I do of the history of the Provincial Secretariat for Justice. My recollection is that he helped establish it in the first instance under the direction of Mr. Rendall Dick, so perhaps Mr. Campbell can articulate more effectively than I can just what the distinctions are.

5 p.m.

Mr. Campbell: Without the list of 40 or 50 specific areas they are working on with various degrees of intensity, I will take one example, the Courts of Justice Act, which is a massive piece of work that involves consultation with every level of court and analysing submissions from organizations, including lawyers' organizations and so forth. This is something that would be done by the policy development division with relatively little reference in the first instance to the Provincial Secretariat for Justice.

As policy ideas are developed, they go into a submission to the cabinet committee on justice that states the problem, two or three different options, the advantages and disadvantages of each and, in most cases, a recommended path of action. That kind of analysis is partly legal, partly more policy oriented.

Then, as a result of whatever happens in the cabinet committee on justice, policy development division will get a direction to fine tune something or change something a little bit, and then it develops into the process of working with senior legislative counsel or his staff in the development of a bill and shepherding it through the various stages or committees or being available to assist.

Mr. Breithaupt: Is it fair to say, then, that the role of the Provincial Secretary for Justice

would be, as the chairman of that committee of cabinet, to be aware of what was being brought forward by a ministry but not necessarily to be in any way responsible for the further detailed development within the ministry itself—in this instance within the office of the Attorney General—just as other ministries would have their own policy persons?

Mr. Campbell: Yes. And most of the work that is done by the policy development division is work with which we do not need to burden the Provincial Secretary for Justice until the stage when it develops into a policy submission that goes there and is looked at by their staff.

Now, freedom of information, an area in which every division of our ministry had quite a considerable interest, came under the aegis of the Provincial Secretariat for Justice. For the purpose of that project only, a lawyer was seconded who was a member of the Attorney General's department working out of the Ministry of Correctional Services. He, Mr. Dombek, was seconded to the Provincial Secretariat for Justice for several lengthy periods to work on that. We consulted with him, and he consulted with a number of people in our ministry as that legislation was being developed.

Generally speaking, the legislation is developed by the ministry. The Provincial Secretariat for Justice has an interest in a number of areas. For instance, they developed an interest in the victim-witness projects, as the Attorney General has mentioned; they had quite a bit to do with the development of the rape or sexual assault examination protocol and the medical kits that were distributed to hospitals. So they often select a few specialized areas of interest and work on them, and on those projects that they do work on, such as some work in relation to sexual assault or sexual assault information, they would keep in touch with the criminal law division of our ministry.

It just depends very much on whichever particular issue is being hit. Legislation comes out of the policy development division and the office of senior legislative counsel, and provincial secretariat staff have some role in assisting the Provincial Secretary for Justice in his role as chairman of the committee that looks after it. When we have the list of around 50 projects they are working on, it is easier when you see the specific things to get a concrete sense of the particular concerns.

Mr. Chairman: Is there any further discussion on vote 1401 by anyone?

Mr. Breithaupt: I only have one other question with respect to the vote, under item 5, on royal commissions. As I recall, there was to be a report of His Honour Judge Webber into fire safety in high-rise buildings. Can I be brought up to date as to the status of this?

If that memo contains the answers to questions that I should have asked, you can leave those too.

Hon. Mr. McMurtry: Judge Webber is currently drafting his final report and expects to be finished by the end of the current calendar year.

Vote 1401 agreed to.

On vote 1402, administrative services program; item 1, main office:

Mr. Breithaupt: The major theme to be addressed is the legal aid program, which is the main item of item 1. The main office vote shows some \$45 million which is to be spent and of that, nearly all of it—some \$44,899,000—is with respect to the legal aid program.

I would appreciate hearing from the Attorney General the situation with respect to the increases which have occurred. There is an increase of some \$4 million with respect to the initial estimates. As we look at this year, we certainly do see an increase. There were a number of comments made in the media by these lawyers' organizations, with respect to increasing the tariffs, and the dissatisfaction some have as they saw the increases compared with the 30 per cent or so figure which, I think, was being sought.

I would appreciate, generally, the comments of the Attorney General on the program. Can he advise us if a number of lawyers are dropping out of it, or is the percentage of those involved about the same as it was?

Hon. Mr. McMurtry: The legal aid tariff is a modest tariff. The increases were announced some months ago: five per cent and five per cent. Obviously, and not surprisingly, that has created some degree of dissatisfaction among the members of the profession. Personally, I believe lawyers who contribute a good deal of their time to the legal aid plan are, generally, doing so at some degree of financial sacrifice.

However, I am not personally aware of any significant reduction in the number of lawyers who are participating in the plan. We are hoping we are going to have an annual review of the tariff, but I do not expect that the tariff will ever be generous enough to satisfy the majority of the legal profession. It is just a reality of the budgetary process.

5:10 p.m.

The Deputy Attorney General has just brought to my attention some interesting figures which I think do point out that while the tariff is a relatively modest one, the actual tariff has not fallen behind the annual rate of inflation to the extent that is often argued.

I am reading from a ministry response to the report of the Social Planning Council of Metropolitan Toronto with respect to the Ontario legal aid plan:

"Between 1970 and 1982 the average payment to lawyers per case has risen from \$156 to \$552, exclusive of the 25 per cent contribution by lawyers to the plan. This represents an increase of 238 per cent or 11 per cent per annum.

"(b) These increases compare favourably with the overall average increases for all sectors province-wide of nine to 11 per cent per annum and reflect very closely the consumer price index for that period.

"(c) It is understood that the fees for case which are obtained by lawyers from the plan may be lower than some of those fees which they may receive from nonplan cases. It must be noted that in general, lawyers handle many of these cases because of their commitment to societal wellbeing."

Our response further indicates: "It should also be understood that the vast majority of Ontario lawyers are not dependent solely on legal aid for their income."

There are obviously many lawyers who are dependent on it to some extent, but this was never the intention of the plan. I think you will recall when the plan came into being that as far as the paid plan of 1968 is concerned, it was never the intention that there be a large number of lawyers dependent to a very large extent on income from the plan, but that phenomenon has developed as a result of the fact the population of the profession has doubled in the last decade.

There are a number of discretionary allowances within the tariff; while the tariff itself has not increased to the point that most lawyers would like, the fact of the matter is, as I have already pointed out, the average payment per case has increased quite dramatically.

Mr. Breithaupt: I agree that the number of lawyers being graduated within the province has no doubt resulted, particularly in more difficult economic times, in many more seeking income as a result of services provided to the plan. While that was not the intention, as we look back over the years, it appears to be the reality now.

As a result, the funding for a variety of clinics

and other programs is always sought, and for worthy reasons, by many organizations within the province, although the funds are not, unfortunately, as readily available as I am sure the Attorney General would hope, just as we in the opposition would hope.

It was interesting that the comments you made would be a response to the rather strong views of the social planning council in its statement on June 9. In that statement, the first paragraph began with the comment, "The Ontario legal aid plan has been undermined by financial eligibility criteria so restrictive that the concept of guaranteeing rights to legal services is changed into one of providing charity to the destitute."

That is a pretty direct and clear comment made by the planning council. I expect you would have addressed that in your letter as well. Perhaps we could have you put on the record your response to that point which was raised, and that it no doubt formed part of your reply as you looked at their comments concerning the stringency of these eligibility criteria.

Hon. Mr. McMurtry: Before I get to the eligibility criteria, which is not directly within the mandate of the Ministry of the Attorney General, I would point out that at the last estimates meeting I made known in fairly emphatic terms my own personal commitment to the legal aid plan. There has been a lot of rhetoric in the legal community and elsewhere about a purported lack of government commitment, as a whole, to the legal aid plan in Ontario. It is my personal view that some of this rhetoric has been somewhat excessive.

I would like to point out some other figures I could have mentioned earlier which are also part of our analysis of the social planning council report. Despite any additional funds we might like, it is our position that we as a government have continued not only to meet the original mandate but have provided additional funding to enhance the plan's reach, depth and activity. These are some illustrations to support our contention in that respect.

(a) The provincial contribution to the plan has increased by 454 per cent since 1970, while overall provincial expenditures increased by 379 per cent. This illustrates the province's continuing strong support of the principles and activities of the plan.

(b) Since 1976 innovations such as the research bank, community clinics, duty counsel and the mentor system were introduced not only to increase the depth of the plan but also to ensure maximum access and experienced advice.

(c) An example of the plan and the government's concern regarding principles of legal aid is illustrated by the large growth in community clinical funding over the last several years. It is our conviction that the community clinics are the linchpin to the provision of unfettered, direct legal and related assistance to community members. In the social planning council findings, it is indeed surprising that there is little reference to the clinic operations, given their concern over the provision of social programs.

Quite frankly, the council undermines its credibility with some of the strident attacks it makes without recognizing some of the positive accomplishments. I think the reluctance of the social planning council to refer to the very significant increase in community law clinics and their importance to the community as a whole indicates the report lacks a good deal of objectivity. I think there is a lesson to be learned if they want to be taken seriously in the future.

5:20 p.m.

The next point they make: The lawyers of Ontario continue to show their overwhelming support of the plan with 40 per cent of their number participating, with 68 per cent of those having four or more years of experience, which does provide an adequate level of legal representation. I refer to the increase in the average of the legal aid account.

While I am not unsympathetic to the problems of lawyers who are faced with, in some areas, dramatic increases in the costs of practising law and the fact that the tariff is a modest one, I think it is important from time to time to put all of these issues in perspective.

In order to indicate that while in the best of all possible worlds we would like to be more generous, and while the generosity that may be desired is lacking, the fact of the matter is that the actual figures in relation to government expenditures do indicate a continuing commitment.

I have a copy of a letter written by Mr. R. J. Otter, the area director for York county, to the provincial director, which states:

"The greatest weakness of this report is that it was prepared without any consultation whatsoever with York county provincial office. To me, this seriously undermines the conclusions of the report. If such discussions had taken place the report would be balanced and fair. Accessibility and financial eligibility have not jeopardized the rights of the poor to legal services.

"I am deeply troubled by the penultimate conclusion on page 10 of the report. The

observation that there is a policy of active discouragement of applicants in York county is totally false and without foundation."

That is the view of the area director, who is not, of course, carrying any brief for the government as a whole.

Some of these reports proclaiming that the sky is falling with a distressing degree of regularity do risk their credibility, not only in the short run but in the long run. I think the social planning council report is a very inadequate document.

With respect to criteria, I am less familiar with that process than the Deputy Attorney General who has had a very long history of very close association with legal aid, both within and outside the government.

Mr. Campbell: Mr. Chairman, briefly summarizing it, I do not have the actual breakdown or sample cases here of a family with so many people and so much income being eligible or ineligible. But in terms of the general structure, the new standards were introduced in 1980. They are quite detailed. They replace the fairly vague principle or the suggestion that there is a gross income test rather than an ability-to-pay test, which is what the social planning council suggested, which is really not the case.

The eligibility standards are not simply geared to the welfare system or to whether or not somebody is destitute. Whatever the limits are, on many occasions there is partial financial assistance to people whose incomes go above the accepted level. In other words, someone who is not quite eligible for full legal aid may get partial payment of it.

As well as that, there is quite a bit of discretion still in the area directors. You cannot just look at the criteria themselves. You have to look at the way they are applied with the discretion of the area director and his staff who are able, with this discretion, to cover any unforeseen hardship that might arise through the blind application of the rules. We can get more information on the specific numbers involved.

Mr. Breithaupt: Mr. Chairman, I do not really require that, I was only interested in the response made generally to the comment that the criteria had been unfairly or extremely dealt with. In particular, I was interested in the general response, part of which was given by the quotation from the letter by the director of the York plan, who apparently was not consulted in the matter and no doubt has some other strong opinions as to

the veracity of the observations, I believe, as a result.

I have only one other question in this vote, then I would be prepared to have it carry. I would like a report on the Experience '83 program. It may be that my colleague the member for Riverdale (Mr. Renwick) has something further to ask on the other subheadings; if so, please go ahead.

Mr. Renwick: I have two items, one on the legal aid plan. There are a number of issues one could raise on the legal aid plan, but I wanted to focus on one particular area.

For some time, as the pressure has grown for a change in the tariff of the legal aid plan, I have had the view, which I expressed to our caucus and to others, that the question that had to be looked at was the statutory requirement of the 25 per cent contribution by lawyers participating in dealing with cases under the legal aid plan. I have never had much success in getting anyone to look at that question, so I was fascinated to find that Judge Abella, in her report on the access to legal services by the disabled, had this to say:

"In Ontario, not only are legal aid lawyers paid an unacceptably low tariff for their work"—I am not in an argumentative mood about the rhetoric—"they face the additional and burdensome requirement that they must return to legal aid 25 per cent of the meagre fee they have earned as a contribution to help finance legal aid.

"These are lawyers who, by their willingness to act for disadvantaged clients, make the legal aid system work. The system has the approval of the law society and thus of the profession as a whole. To place a major financial burden for the running of the plan disproportionately on the shoulders of the lawyers who get paid less than their privately retained colleagues who support the plan in principle is unjust. The 25 per cent rebate to legal aid should be replaced by a more equitable distribution of the financial responsibility for legal aid among all members of the legal profession.

"An annual fixed contribution from each member of the law society to assist the legal aid plan is far fairer, for example, than penalizing the lawyers who work on legal aid certificates. There are few enough incentives in the low legal aid tariff without the additional penalty of a 25 per cent automatic reduction. Lawyers should be encouraged to provide services for the disadvantaged. It is unfair to expect a lawyer's

personal and professional sense of commitment to long survive a relentlessly inadequate income."

Then there is the note at the bottom, "During the course of the study it was learned that the Ontario legal aid committee is exploring the possibility of levying an assessment on all lawyers to be met by direct contribution of services or by cash payment."

Is the Attorney General giving any thought to looking at this antiquated provision and coming up with some more equitable way of levying the burden on the profession, and is he aware that the Ontario legal aid committee is apparently exploring this possibility of an assessment on all lawyers to be met by direct contribution of services or by cash payment?

5:30 p.m.

Hon. Mr. McMurtry: I have a great deal of personal sympathy with the suggestion that the profession as a whole has a responsibility to support the plan. Of course, I come to it with a particular bias because in my own experience, and I know this experience is probably shared by my opposition critics who participated in the plan. Well before there was any remuneration whatsoever, it was simply assumed that lawyers, as part of their professional responsibilities, would give a certain percentage of their time to forms of community service without fee. For lawyers involved in advocacy this meant, as I am sure it did for all of us, often spending many weeks in court every year for no fee under the old legal aid plan.

I have always believed in this responsibility, so I think it is unfortunate if the burden of any sacrifice that may be made by working within the plan is encountered or carried by only a small percentage of the profession when the profession as a whole does have the responsibility. That is my own personal bias. The response I hear from lawyers who are not engaged in the legal aid plan when this subject comes up is: "I do not do court work, but I am very involved in other forms of community service for which I do not receive any remuneration. While some of my colleagues make a societal contribution to the legal aid plan, I make it through other services I give to the community for which I am not compensated." That obviously is factual with respect to a lot of lawyers.

There is no doubt in my mind that any such attempt by the law society to acquire a contribution from all lawyers in the province, either by participation or by some monetary contribution to the plan in the absence of participation, would provoke a very significant controversy.

This is a problem for the legal aid plan. It is obviously something the government would not do directly. If the law society in its wisdom wishes to embark on such a course, it certainly will not receive any opposition from me. I will even make a contribution in view of the fact that I am not taking on legal aid cases any more.

Mr. Renwick: I can naturally understand what would happen if the suggestion were made. All the arguments you have said would be put forward. There is no doubt in my mind that the the plan in its original conception was initiated always on the basis that the legal profession as a whole would control it. They get substantial funds from the public purse through this vote we are dealing with now.

It strikes me that puts an entirely different complexion on the question I raised. They have a responsibility that they have willingly accepted. Indeed, they would have objected seriously had there been a separate body functioning to run the legal aid plan. But because of that, I certainly think the present 25 per cent is an outmoded method and there should be some understanding that if the tradition of the profession is to be maintained in the way in which I personally would like it to be maintained, each lawyer should have a sense that part of his obligation as a professional person is to make that contribution. If they want to take the position that it is simply a trade and not a profession, then let us face up to the fact that the additional funds are going to have to come from elsewhere.

I am concerned, for example, that the report of the law foundation would indicate that because of economic hardship the funds available to the law foundation are down by about \$3 million, and this will be reflected in the number of dollars that are available for the legal aid plan from the law foundation.

Hon. Mr. McMurtry: That makes 75 per cent of that.

Mr. Renwick: Yes, 75 per cent of that. It was down from \$15-odd million to about \$12 million in 1982 over 1981, which is a decrease of 22 per cent. This means the legal aid plan is going to be short that additional number of dollars, and there is nothing indicating that somewhere it is going to be picked up by some supplementary system.

Hon. Mr. McMurtry: It had to be picked up by the government—

Mr. Renwick: Yes, ultimately it has to be picked up by the government.

Hon. Mr. McMurtry: —because of our statutory responsibility for payment of the accounts.

Mr. Renwick: I am not going to labour it, and I do not want the Attorney General to be disabused with Judge Abella's report, because she had adopted some of the rhetoric of the social planning council's statement and, indeed, quotes my friend on page 62 in the footnote at some length.

Interjections.

Mr. Renwick: Footnote 35 is an extract from my colleague's remarks on June 15, which quoted the very part of the social planning report that my colleague referred to earlier.

Mr. Breithaupt: It is nice to have the other point of view.

Hon. Mr. McMurtry: Yes. I am sure Judge Abella would have appreciated having the other point of view as well.

Mr. Renwick: I do not want to pursue all of the things, but there are a significant number of comments about the legal aid plan in her report and, of course, it is too early to talk in those terms.

That is my only comment other than to say that I continue to be a member of the board of Riverdale Socio-Legal Services, so I do have a close connection with the nuts-and-bolts operations of the clinic, not only in its service to its clients but also in its relationships with the clinic funding committee and the way in which it functions.

Some of the problems that are involved with that whole area create some tensions but, like the minister who a year ago affirmed his commitment to the community legal clinic system, I think it is firmly based and I have not heard very much criticism lately from the profession about the community legal aid system. Whether or not it is because it has developed into watertight compartments between the community legal aid clinics, the profession itself and the cases that come under legal aid certificates I do not know.

I have one other matter not related to the legal aid plan.

Mr. Breithaupt: Go ahead.

Hon. Mr. McMurtry: I have just been handed a note that might be of interest to the member for Riverdale. We expect two additional clinics to open in January next.

Mr. Renwick: Which two?

Hon. Mr. McMurtry: They are out of Toronto;

one in Sault Ste. Marie and one in Prescott-Russell.

Mr. Renwick: So gradually the province is being covered by a network of clinics.

Hon. Mr. McMurtry: Yes.

Mr. Breithaupt: As I said, the only other item that I had was a general comment. I would appreciate hearing the result of the Experience '83 program, but other than that the vote certainly can carry.

Mr. Chairman: On vote 1402, shall item 1 carry?

Mr. Renwick: I am not certain where my question comes, but may I just ask it? It is the only other one I have. Last year I raised the rather amusing report of the Provincial Auditor with respect to the operations of the application systems development of the ministry, which said that "although the door to the room was fitted with a deadbolt lock that could be opened only from the outside with a key, there was an unlockable, sliding window through which entry to the room could easily be gained."

There was another reference to the fact that the programmer generally worked at home and sort of continuously had access to the computer, and there were a number of other comments. I raised them in the estimates last year because I wanted to make certain they were being dealt with. I think the ministry was a little bit perturbed by them. Could the ministry respond as to whether the problems raised by the Provincial Auditor, dealing with the Ministry of the Attorney General, have now been dealt with or overcome?

Mr. Campbell: Mr. Chairman, I understand they have, and that ministry officials appeared before the standing committee on public accounts last March and addressed in some detail the concerns in the Provincial Auditor's report. I do not know whether I can find the particular passage dealing with that.

Mr. Renwick: March 1983?

Mr. Campbell: Yes, sir.

Mr. Renwick: We do not have that report as yet.

Mr. Campbell: What I am looking at is apparently a transcript or an account of those proceedings. Perhaps we could make that available to you.

Mr. Breithaupt: I think there is an Instant Hansard for the public accounts.

Mr. Chairman: Yes, there is a transcript.

Mr. Breithaupt: If you gave the date to my colleague that might be sufficient.

Mr. Campbell: Thursday, March 10, 1983, afternoon sitting.

With respect to Experience '83, we do not have a fully detailed statement but, as you can see, the amount was \$254,000; I understand the number of students was 160 in 1982 and 202 in 1983. It is of course funded by the youth secretariat, which has certain criteria as to the extent to which a ministry can participate. We participate as much as we can; in other words, we get into that program as heavily as we can. The students performed a huge variety of different jobs throughout the ministry. If you like, we can provide you with a more detailed report on that.

Mr. Breithaupt: Are you finding it a satisfactory involvement and are you able to place students to their and your advantage?

Mr. Campbell: Yes, very much so.

Mr. Chairman: Thank you, Mr. Breithaupt. Before we go to the vote, there has been a little bit of a time problem that I should make the committee aware of. As you are all aware, this evening and tomorrow we will be debating the bill on aboriginal rights in the House. I think the honourable minister is scheduled for tomorrow morning. We do not know whether we will get to the scheduling tomorrow morning; it may necessitate starting later than we normally do, which is after routine proceedings.

What would the committee like to do? Would they like to cancel?

Mr. Breithaupt: We will just have to wait and see. In any event, the time left will take us past Wednesday's available time; so we are probably going to be sitting in this committee next Thursday afternoon as well. I think we will just have to play it by ear. If the Attorney General is not available because of the scheduling tomor-

row morning we could decide at that point not to continue.

Mr. Mitchell: Mr. Chairman, I gather it is not confirmed whether or not the Attorney General will be available.

Mr. Chairman: It depends on how the scheduling goes this evening, whether he is on immediately. If there is any delay, he may not be on.

Mr. Mitchell: I could live with the Attorney General's recommendation, but I think it might be more prudent to cancel.

Mr. Renwick: I do not think we need necessarily cancel it unless the Attorney General wants to cancel it. Let us assume we will sit tomorrow morning and perhaps the clerk could advise us. If the schedule gets out of kilter and the minister is not going to be speaking tomorrow morning, we might as well continue.

Mr. Breithaupt: I think we should simply plan at this moment to continue and, if the Attorney General is delayed, obviously we will not be able to continue directly after routine proceedings tomorrow.

Hon. Mr. McMurtry: The government House leader, of course, is aware of our estimates and I will be either in the House or here. I may want to adjourn a little before one o'clock tomorrow because there is a sheriffs and court registrars conference in Toronto and I am expected to attend and address their annual luncheon tomorrow.

Mr. Breithaupt: If that is the case, that we may be both late starting and have to adjourn early, I suggest that the committee not meet tomorrow, that we just cancel it.

Mr. Chairman: Agreed.

Vote 1402 agreed to.

Mr. Breithaupt: Will we be meeting next Wednesday morning, Mr. Chairman?

Mr. Chairman: Yes.

The committee adjourned at 5:48 p.m.

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No. J-10

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of the Attorney General

Third Session, 32nd Parliament

Wednesday, October 19, 1983

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, October 19, 1983

The committee met at 10:09 a.m. in room 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

(continued)

Mr. Chairman: If the Attorney General would come to the table, I think we see a quorum and we could get started.

Good morning, gentlemen. We have a little bit of unfinished business. I am going to ask the Attorney General if he has any response in regard to the Buchbinder judgement. I think you indicated on Thursday you might have some additional information this morning.

Hon. Mr. McMurtry: Mr. Chairman, I do not know that I would characterize it as additional information but I did indicate to the committee, as you suggest, that I would be making a statement this morning. I will be making a statement; the only difficulty is that I made a few changes in it this morning, and it is being retyped and probably will be up within the next 20 minutes. I wonder whether there is another matter we might deal with prior to its arrival, which should not be any longer than that time.

Mr. Renwick: Perhaps, sir, you may have a comment on the issues Mr. Kennedy raised about the bail question in Mississauga in connection with the robbery of that store.

Hon. Mr. McMurtry: Yes.

Mr. Renwick: I had asked for the transcript, if possible. Perhaps you could bring us up to date on the position of your law officers.

Hon. Mr. McMurtry: My understanding is that the matter is before the courts today. Mr. Takach, who is the director of the criminal branch of the ministry, is here. Perhaps Mr. Takach could join us. He is a little more current than I am.

Mr. Takach: You are aware, Mr. Renwick, that the matter came up yesterday and it was agreed to put it over to today. A transcript has been ordered of the earlier proceeding and is not yet available, although they may have it for today's bail hearing.

Two subsidiary issues with respect to compliance by the accused or the individual released on recognizance are matters that really at this

point it would be inappropriate to comment on. For one reason, it is before the court and will form a part of the crown's submission with respect to the release from custody. As well—I think I can go this far—there is at least some issue as to whether the accused was in a position to comply with at least one of the conditions, the direction to attend school. That is still being looked at by the Peel county crown's office. On Monday, I spoke with Mr. McGuigan, the crown attorney and Mr. Trafford, the assistant crown attorney in charge of the case. They are well aware of the allegations and the issue, and again those will be subsumed in the application today.

I think that is all I can say about it at the moment without getting into the respective merits of it, which of course would not be proper.

Mr. Breithaupt: There certainly does appear to be a feeling abroad on the whole matter of bail. It is regrettable that more of the population in our province do not realize what bail is all about, why it is granted and what the reasons are for allowing a person charged with an offence to be at liberty until the trial does occur. It is very difficult to get that idea across as to the ordinary desire of the courts to ensure that the person attends at his or her trial. That, as I understand it, is the sole purpose of the bail system.

However, it would appear that many persons charged with offences which receive wide publicity have value judgements made that have nothing to do with the bail system and yet gain great interest with the public. I do not know what we do about that as far as trying to more clearly set out just why bail is granted to certain people and denied to certain other people by our system.

Hon. Mr. McMurtry: Certainly with some of the horrendous crimes of violence we have all been exposed to, it is quite understandable that the public would be outraged; that outrage, of course, is often directed towards any suspect. That is very understandable in human terms, but in legal terms, as you know very well and as I have said on a number of occasions in recent days, the cornerstone of the criminal justice system and of the democratic society in which

we live is the presumption of innocence. That is sometimes difficult for people to grasp entirely if the public has reason to believe someone has committed an offence, notwithstanding the fact that his guilt has not been established in a court of law.

It was not so many years ago that a number of people were kept, in my view unnecessarily, in jail pending their trial. There was a considerable amount of debate leading up to the bail reform legislation.

Mr. Takach, what was the approximate date of the new bail reforms?

Mr. Takach: I think it was 1972, somewhere around there.

Hon. Mr. McMurtry: It was around 1972. I can recall that for several years after that legislation came into being there was a great deal of criticism, particularly from the police forces. The criticism, in my experience, largely died down until relatively recently.

Quoting from section 457 of the Criminal Code, the legislation provides, in relation to the pre-trial release of an accused who is not already out on bail, in subsection 7: "For the purposes of this section the detention of an accused in custody is justified only on either of the following grounds, namely"—as you pointed out Mr. Breithaupt—" (a) on the primary ground that his detention is necessary to ensure his attendance in court in order to be dealt with according to law; and

"(b) on the secondary ground the (applicability of which shall be determined only in the event that and after it is determined that his detention is not justified on the primary ground referred to in paragraph (a)) that his detention is necessary in the public interest or for the protection or safety of the public, having regard to all the circumstances including any substantial likelihood that the accused will, if he is released from custody, commit a criminal offence or an interference with the administration of justice."

The evidentiary burden is of course upon the crown on a balance of probabilities. In the particular case Mr. Renwick referred to, it was clear to me, after being given a brief review of the facts of the case, that at the very least a bail review was warranted, and that has been instituted.

This issue gets mixed in with other issues relating to the sentencing of violent offenders. There is no question that the public has an understandable concern about the criminal justice system reacting effectively to crimes of violence. At a time when crimes of violence are

increasing, the Attorney General of this province has no difficulty in understanding the nature and degree of the public concern, but at the same time it is important that these issues be kept in context.

While we will continue to seek harsher, more severe penalties for crimes of violence, we still must never lose sight of the fundamental protections that are the right of all citizens and that are absolutely necessary if we are to retain the freedoms we all consider to be crucial to the nature and quality of the society in which we live.

10:20 a.m.

When it comes to violent offenders, I think Ontario has been more aggressive than any other province, for example, when it comes to making applications to have individuals who are convicted declared dangerous offenders. I think the number of successful applications in Ontario exceeds the number in all the other provinces put together. I only mention that to indicate these matters are of the very highest priority as far as we are concerned.

The Deputy Attorney General has pointed out to me some material that has been prepared with respect to what we discussed earlier, methods of affecting sentencing trends and recent changes in sentencing trends. I would like to deal with this at some point. I do not know whether this is necessarily the appropriate time, because in the particular case to which Mr. Renwick has referred, nobody has been convicted. But it might be appropriate, while we are waiting for this other information, if I were to deal with this, because I think it is of interest and relevant to the many concerns that have been expressed in recent months.

Our ministry has two major ways of attempting to influence sentencing approaches set by the courts. The first relates to the crown's submissions to the court on sentencing. In most cases, the position taken by the crown is given great weight by the court. By emphasizing particular principles in similar cases throughout the province and taking a particular approach in all like cases, the crown can gradually influence the court to change the range of sentences imposed in a certain type of offence.

I might interject that sometimes this is a fairly gradual process. When it comes to attitudinal change on the part of our courts, understandably, these changes do not usually occur swiftly but over a period of time as a result of submissions that are continually made by our crown law

officers, not only in the trial courts but also, very important, in the Court of Appeal.

The second way of influencing sentencing trends is through crown appeals. All requests for appeals in indictable matters are considered by at least three lawyers in the crown law office, criminal. In deciding whether to appeal the sentence, consideration is given to a wide range of factors, including the seriousness of the charge, the position of the crown at trial, whether the trial judges made errors in the reasons given, whether the sentence is significantly different from sentences imposed in like cases and the need at all times to protect the public.

Where it is thought that a particular type of offence has been treated too leniently by the courts, crown appeals can be taken to ask the Court of Appeal to give direction to the trial courts concerning the appropriate principles and range of sentence.

These two methods have been successfully employed in recent months, for example, in the case of drinking and driving offences. I think these cases may be said to be a direct result of the position taken by the crown that drinking and driving offences require custodial sentences to protect the motoring public and to emphatically deter this type of conduct, which has such tragic consequences.

The Court of Appeal has made some very strong statements in recent cases. Four decisions might be noted in relation to drinking and driving offences. The first is the case of *Regina versus Bigham*, which is reported in 1983, volume 69, Canadian Criminal Cases, second series, at page 221. This is a decision of the Ontario Court of Appeal. A crown appeal against a sentence of four months imposed on a charge of dangerous driving is allowed and the sentence increased to nine months. The accused was impaired, and two deaths resulted from the accident. The accused had a driving record for careless driving and speeding. The court held that the sentence had to demonstrate to the public that the criminal conduct involved in drinking and driving offences would be dealt with severely by the courts. Some of us might believe that a more severe sentence was warranted even than that imposed by the Court of Appeal, but it is an important case and, I hope, will influence the trial judges, as will these other cases, all Ontario Court of Appeal cases.

The second case I want to refer to briefly is *Regina versus Parks*, reported in 1983, volume 39, Ontario Reports, page 334. In this case the

crown appealed against a sentence of a fine of \$1,000 in a case of dangerous driving in which deaths had resulted. The appeal was allowed and a sentence of six months imposed. The accused had a driving record for speeding and was impaired at the time of the accident. The court held that the tragic consequences were relevant in increasing the sentence.

The two other cases I will just refer to by name. *Regina versus Buuck*, which is not yet reported but is a decision of the Ontario Court of Appeal on May 11, involved a 17-year-old first offender. The accused had no driving record but had been consuming alcohol. The consumption of alcohol resulted in a driving error that set in train a tragic series of events, including the grabbing of the wheel by a passenger, which led to the death of two of the car's occupants. A custodial sentence was imposed, notwithstanding the youth and lack of record of the accused.

In *Regina versus Wickens*, also in the Ontario Court of Appeal, decided on May 20, 1983, and not yet reported, a crown appeal against a sentence of one year was allowed and the sentence increased to two years less a day. The charge was criminal negligence, and two deaths resulted from the accident. The court held that a penitentiary sentence would have been appropriate, but did impose the maximum reformatory sentence.

I think these cases indicate a very distinct trend in the Court of Appeal towards getting much tougher with respect to drinking and driving offences, alcohol abuse on the highway, and I hope the message is being received by the trial courts. The difficulty the crown has had in attaining what we consider to be the appropriate sentences traditionally has been that many of the offenders are people who, in general terms, are usually otherwise law-abiding members of the community, often with families and steady jobs. They do not quite fit the same mould as the traditional criminal offender. As we have said on occasion, the consequences of their activities usually have much more tragic results than the activities even of many habitual offenders in other areas of criminal activities.

10:30 a.m.

The second area I wanted to deal with briefly was robbery and weapons charges. The crown has adopted a consistent policy of laying a charge under section 83 of the Criminal Code in all cases where a firearm has been used in the commission of an indictable offence. The Court of Appeal has recently clarified that the one-

year minimum sentence, as legislated by Parliament for section 83 offences, must not be considered to reduce a sentence that is otherwise appropriate for robbery. That was in the case of *Regina versus St. Amand*, 1982, volume 67, Canadian Criminal Cases, page 103.

Further, the Court of Appeal has been treating an offence where a weapon is loaded or fired with greater seriousness. For example, in *Regina versus Courville*, a decision of the Ontario Court of Appeal on April 27 this year not yet reported, the court increased the sentence for robbery under section 83 from two years to a total of six years, including a two-year sentence on the section 83 charge where a shot was fired.

In general, it may be said that sentences imposed on young offenders who rob variety or milk stores have been increasing throughout Canada. The Alberta Court of Appeal, for example, recently released a lengthy judgement setting out principles to be applied in such cases. Also, the crown has been asking the court to impose a mandatory weapons prohibition order under section 98 of the Criminal Code in all cases involving the use or threat of force, whether or not a weapon was used.

I was going to turn to compensation restitution orders, but before doing so, I think it is fair to say that I fully expect there to be an ongoing debate in this country, as has occurred in recent years in the United States, in relation to fixed sentences. I do not have any firm views on the matter. By this I am talking about sentences where, under the existing law, people are entitled to have their sentences reduced for good behaviour and are eligible for parole.

It is a complex issue. We know that small "I" liberal political leaders in the United States, like Senator Edward Kennedy, in recent years have been pressing for fixed criminal sentences.

Mr. Breithaupt: These were with respect to weapons use, in particular?

Hon. Mr. McMurtry: Yes, in particular with respect to weapons offences and crimes of violence. Where a sentence of six years is imposed, the right to reduction of the sentence or parole is no longer available. I understand there is some legislation being considered by Congress at this time.

I only mention it at this time to recognize that I expect this to be the subject matter of continuing debate in Canada because we hear a number of expressions of concern from citizens generally and from police forces with respect to "whatever the sentence imposed, the person is

going to be out usually when one third of the sentence has been served."

I can understand the public's concern with respect to the existing law when it comes to crimes of violence. I am only mentioning it at this time, not to suggest that we have a fixed deal in the matter, but that I think it is an appropriate matter for public debate provincially, and more particularly in the federal Parliament which has the ultimate responsibility in relation to criminal law matters.

The matter of compensation restitution orders is something we have been encouraging for many years and certainly during most of my tenure as Attorney General. As you know, the Criminal Code provides in section 653 that the court convicting an accused of an indictable offence may order that compensation be paid to the victim for loss or damage to property. The order is enforceable as a civil judgement and, therefore, the making of the order saves the victim from having to launch a civil suit.

Unfortunately, criminal courts have been reluctant to make such orders. In *Regina versus Zelensky*, for example, reported in 1978, volume 41, Canadian Criminal Cases, page 97, the Supreme Court of Canada held that such an order "should only be made with restraint and caution and in particular should not be made where there is a serious contest or legal or factual issues . . ." I cannot quarrel with that direction which, of course, is the law of the land.

Even when there are no such problems, courts often tend to decline to exercise their discretion to make the order, preferring to leave the victim to civil remedies. A case in which the trial court refused to make the order, although the amount was uncontested, has been appealed by the crown to the Ontario Court of Appeal in an attempt to have this issue clarified. We await with interest that decision.

Restitution and reparation may also be ordered as a term of probation under section 663(2)(e) of the Criminal Code. To facilitate the use of such terms, projects such as the victim/offender reconciliation project in Kitchener have been established. Some difficulties have been met in establishing how specific the term of probation must be. In that respect, the Ontario Court of Appeal had some comments in the case of *Regina versus Hudson*, reported in 1982, volume 65, Canadian Criminal Cases, page 171.

The whole issue and principle of compensation of the victim justice, as we have seen in recent years, has been given a much higher priority. I hope that trend will continue indefi-

nately. We have heard the federal Minister of Justice suggest possible amendments to the Criminal Code where the victim, through counsel, even may be allowed to make submissions to the court with respect to sentencing. Subject to the appropriate safeguards, I think this is the direction in which we should be going.

One of the difficulties when it comes to the public perception of sentencing generally is that the public usually does not have the benefit of all the facts that are available to the court. This is understandable simply by reason of the fact that the media usually do not have the time or space to deal with all the facts and the relevant arguments that are made to a court in sentencing. Another aspect is that the public may not always have the relevant factors that caused the court to come to a particular conclusion in a particular case, and this often causes misunderstanding when the sentence appears to be lenient.

10:40 a.m.

We do appeal a large number of sentences every year. We are often criticized by the defence bar in this province for the number of appeals we launch in relation to sentencing matters. I do not think the criticism is justified. These appeals are always launched in the public interest, and what is in the public interest will continue to be the guiding principle, as far as crown appeals are concerned. There is no question but that all of us involved in the criminal justice system in this country have a major challenge to demonstrate that the criminal justice system is coping adequately with the challenges with which it is faced on a day-to-day basis. I am not suggesting we always succeed in that task.

Mr. Chairman: Thank you. It has been brought to our attention that the witnesses on my extreme left do not have microphones. We apologize for that. If there is any further testimony today, we would appreciate it if you would use the microphones in the front in order that we may record it. I hope we will have the situation corrected tomorrow. Mr. Renwick, you have the floor now.

Mr. Renwick: I would like to comment on the question of restitution with respect to courts. I did not anticipate that we would be dealing with that this morning and I do not have the particular judgement in front of me.

I am surprised to hear of the minister's long-standing interest in this matter. I guess I learn something every session we have together.

I wrote to you about a year and half ago or two years ago and you were good enough to send me Judge Graburn's decision in *Regina versus Stephen Kollins*.

One of the victims of that particular fraud had been in touch with me. I wrote to you about the failure of the judge to order restitution or to propound a scheme for restitution in a situation in which both the accused person and his counsel, undoubtedly with other motives in mind as well, were prepared to propound a scheme where, on release after serving his term, the accused person, who had then been convicted, would make some effort to make restitution. Judge Graburn gave all the traditional reasons in that case for not making an order of restitution.

I was surprised then to find that within a year the attitude of the courts, for whatever the reason—I think partly because of the activity of your crown law officers, but also because of public pressure—had in cases somewhat similar been making restitution orders. Of course, as you mentioned, there have been specific proposals made on the question of restitution.

Mr. Breithaupt and I attended with Mr. Sterling in Vancouver a year and a half ago a conference on the question of the rights of victims of crime. The report, as you know, has just been issued. I would ask the Attorney General if he would respond to the specific recommendations and let us have his views on his position. He referred to one of them this morning. This is a reference to Justice for Victims of Crime, the federal-provincial task force report, from which I am quoting highlights.

Recommendation 8: That the Criminal Code, section 653, be amended to require judges to consider restitution in all appropriate cases and to provide an opportunity for victims to make representations to the court regarding their ascertainable losses. You made a brief reference to that, sir.

Recommendation 9: That a provision be included in the Criminal Code to empower the court to impose a jail term where the accused wilfully defaults on the restitution order ordered by the court.

Recommendation 10: That the Criminal Code, section 388, be amended to cover situations where the damage caused does not exceed \$500 and that compensation could be ordered up to \$500 instead of the present limit of \$50.

I would appreciate it if you would comment on those three recommendations and any other

recommendations you have to give some additional weight to the position of the judges.

Hon. Mr. McMurtry: I cannot think of any recommendations at the moment that we take issue with. There may be some technical details about which we have some concern, but we certainly agree with the spirit of all these recommendations. We have not made a formal response yet to the report.

I am sure we have discussed this in estimates, though perhaps not in the last two or three years. I can recall sending out a number of memorandums to crown attorneys around the province as long as seven years ago urging them to seek these restitution orders.

I think that at one time the law was perhaps a little unclear and we were waiting for a particular Court of Appeal decision. Of course, we have the Zelensky decision that, as I have already quoted, indicated that such orders should only be made with restraint and caution. But I know that in estimates, as long as seven years ago, this matter was discussed because of meetings with our regional crown attorneys and memorandums that had gone out to encourage the orders of restitution.

There is another issue I can recall grappling with. As an example, some years ago with respect to victims of sexual assaults particularly, charges of rape or attempted rape were laid in some large centres like Toronto with a large volume of cases and a large crown attorney staff. It was drawn to my attention that a victim in a rape case, for example, might initially be interviewed by crown attorney A, but it might be crown attorney B who would appear at the preliminary hearing and crown attorney C at the trial.

Obviously, this was a totally unsatisfactory situation because of the emotional trauma all these victims are subjected to. The possibility that, as it was put to me, a virtual stranger might be asking the complainant questions of a highly intimate nature, and the difficulty, the additional trauma, to which the victim is exposed from an emotional standpoint in a courtroom were matters of great concern to me.

I recall instituting a system at least seven years ago where we were directing the crown attorneys that one crown attorney should be assigned to the individual case and that crown attorney should follow the case from the beginning through to the conclusion so the victims would at least know the individual with whom they were dealing and there would be that necessary degree of confidence established,

while maintaining the integrity of the evidentiary process.

I mention that as an illustration of the fact that, while victim justice has become sort of a popular buzzword in relatively recent years, in the last several years a number of initiatives have been undertaken to make the system easier for the victim witness. For example, crown witnesses were often kept unnecessarily waiting around to give evidence, and initiatives were taken to try to avoid that type of inconvenience and to encourage crown counsel, or in many cases police forces, to maintain better communications with victims of crime. When it came to knowing the outcome of the case, often with pleas of guilty where the victim was not required as a witness, there was a breakdown in communication and the victim did not know the outcome of the case. In my view, this could create a lack of confidence in the justice system.

10:50 a.m.

There have been a lot of individual initiatives taken over the years. The fact that justice for the victims of crime has become an issue of national importance, resulting in this important report of the federal-provincial task force is something we welcome very much. I only wanted to indicate that many initiatives have been taken in recent years within our resources, which are not always totally adequate in dealing with these issues. However, these recommendations are generally, I think, quite acceptable to us and have been the subject matter of a good deal of discussion in recent years.

Mr. Renwick: Yes. I have just a very brief response. What I said about your interest in this matter—and, obviously, you would be interested in it—I think I stated it rather badly.

It strikes me that it was and still remains relatively trite law that the criminal courts are not to be used for the collection of moneys, whatever that means in the trite world of lawyers. With respect to the judgement of the Supreme Court of Canada about restraint and caution, it seems clear to me that the ingrained attitude of the courts is that long tradition has its merits. Mr. Justice Graburn, in the case to which I referred, went to great lengths to explain why it was not appropriate that the restitution order be made.

To reverse that trend, in my quite humble view, is going to require the kind of amendment to the Criminal Code that makes a positive statement with respect to the obligation of the courts, or you are going to have the long-

standing tradition still there and still preventing advance being made. I do not think it is an area where we can simply wait for the courts to respond to public pressure because the public pressure has been around for a reasonable period of time.

As I say, I was quite concerned and I fully understood what Judge Graburn was saying in that particular case because it fell within the tradition that we have always heard expressed about restitution. I was absolutely deeply concerned because it cries out for some kind of positive redirection to the court. I think that can only come about, in view of what the Supreme Court of Canada has said, if they change their attitude and express a new direction, which will take a long time, or if some urgency be put behind these relatively straightforward simple amendments to the code to have the matter fully before the court.

The best way to do this is to have the actual person who suffered the loss before the court so the court has it in its mind that here is a living human being who has suffered this loss and this is the nature and extent of the loss. It will balance, in some way, the attitude of the court towards restitution.

Hon. Mr. McMurtry: I certainly agree fully with what you have said. This is an important trend and has to be given a very high priority. I hope we will have a formal response to the federal-provincial task force in the very near future.

Mr. MacQuarrie: Mr. Chairman, I really have three questions. Touching first on the question of restitution in crimes involving breach of trust, theft, conversion and the like where fixed, definite sums of money are clearly established, is it the general practice of the crown law officers to go for the order, which can be enforceable in the same way as a judgement in the civil court?

I hark back to one case with which I was involved where the order was issued and the culprit involved had executions against his property and all the rest of it to cover off the amounts involved. This, I think, certainly went to secure the judgement, and payment was ultimately obtained. I just wondered if, as a general policy, you do press for this sort of order.

Hon. Mr. McMurtry: The policy is being implemented. Whether it is always followed, of course, I cannot say with any degree of confidence, mainly because there is sometimes not

the appropriate communication between the crown's office or the local police department and the victim when it comes to, first of all, appearing in court if there is a plea of guilty; and not only appearing in court but bringing the necessary documents with them. When we are dealing, for example, with damage to property, normally there may be repair bills or estimates of one kind or another. With the very heavy work loads our crown attorneys and police forces have, there is sometimes inadequate communication with the victim to ensure that the victim does have enough information and the appropriate documents in court so that the court can properly make such an order.

Mr. MacQuarrie: I was thinking of cases where the court could definitely ascertain the exact amount of money involved in the offence. It was my understanding at the time that the order issued in the case with which I was involved was more or less the exception rather than the rule. That is 15 years ago, so I wonder if things have changed very much since then and whether we are insisting on orders being requested and then proceeded with as the ordinary execution in the civil process.

Hon. Mr. McMurtry: Certainly, things have changed during the past few years. One has to bear in mind also certain realities, such as the fact that in many cases the order is of largely academic interest. Often the police and the crown may realize that the likelihood of recovering the civil judgement is so remote that there may not necessarily always be an interest in obtaining the order. Part of the challenge is an educational one of continuing to remind our crown attorneys and our police forces, who often provide the link between the victim and the court, that there are these remedies available. We have to continue to make sure that is known.

11 a.m.

We have had some modest degree of success, because the increase in the number of these orders that has been made in recent years is quite dramatic. I am not suggesting for a moment they are made in every case where they could properly be made.

Mr. MacQuarrie: My second question really goes back to the question of bail and the right to bail. I suppose the first object of bail is to secure attendance, but the second aspect is where the public interest is in jeopardy and where it is advisable to hold the accused in custody. Do the law officers of the crown as a general rule,

where there is a question of the public interest being in jeopardy, strictly oppose the granting of bail? Is that a general policy followed by the ministry?

Hon. Mr. McMurtry: One has to look at each individual case. Assuming attendance at trial is not an issue, what is in the public interest is a vague and arguable term, unless there is evidence the person is likely to commit another offence. In serious crimes of violence, again depending also on considerations—whether the accused has a prior record is obviously an important consideration—it is quite common for the crown to oppose bail. One has to look at all the circumstances. It is a little difficult to generalize.

Mr. MacQuarrie: I realize that.

Hon. Mr. McMurtry: Perhaps Mr. Takach could shed a little more light on the day-to-day policy. As a former director of crown attorneys and a former crown attorney himself in both southern and northern Ontario, he might be able to shed a little more light on what happens on a day-to-day basis.

Mr. MacQuarrie: I was basing my question on the fact that the public interest was determined to have been in jeopardy. I wanted to satisfy myself that in cases like that, where the crown and others in consultation with the law enforcement agencies, police and otherwise, had satisfied themselves this guy should not be on the street, they were going to oppose it to the bitter end.

Mr. Takach: In any particular case I would not even go so far as to say it has been determined because it is not the crown that determines whether the public is in jeopardy. Where there is reasonable cause to believe the public interest is in jeopardy, that the accused will commit offences when out on bail, that the accused will intimidate witnesses or that just generally the public interest is that this individual should not be at large, where it is perceived that is a real and distinct issue, it is our policy unequivocally to show cause to have the accused detained or, at the very least, to have severe restrictions and conditions put on him in the form of a recognizance.

Mr. MacQuarrie: I have a third question. There is one human element in a lot of the administration of the criminal law at the prosecution level that is quite often overlooked in the whole process. The witness arrives at the courthouse. It may be his first experience in the

court. He does not know where he is going and what he is doing or the rest of it.

There have been a couple of trial projects of witness assistance. One, I believe, was tried in London and one in Ottawa, substantially under the auspices of the local police force and the Salvation Army. I know representations have been made to me by the Salvation Army. I am wondering whether the Ministry of the Attorney General could be of some assistance and support in getting this sort of program funded one way or another?

I can certainly sympathize with a witness who comes into a courthouse not knowing too much about what exactly goes on. As so much of the successful administration of justice in the criminal context depends on having witnesses who really are at ease, if you will, I think that is quite important.

Hon. Mr. McMurtry: Yes. We would certainly like to see a number of these projects. I think you and I, Mr. MacQuarrie, will have to continue to sort of proselytize our colleagues. I am sure we have the support of a number of our colleagues with respect to the additional funding that I think is required to have as many of the projects as we would like to see in place.

There are two projects I might refer to at the moment, and I think you have referred to both of them. First, they address the need to minimize the need for witnesses to attend at court and to assist them to fulfil their role when required.

The Ottawa project is acting in a co-ordinating fashion relating to the needs of witnesses at trials through extensive direct contact with witnesses in order to assist them through the process. Similarly, the project in London is providing assistance, information and support to witnesses appearing in criminal matters. The note I have states that it capitalizes on an existing program, run with the assistance of the Salvation Army, to which you have already referred.

We have prepared a witness pamphlet which has been distributed across Ontario. I think you have seen it.

Mr. MacQuarrie: Yes, I have. It is a good one.

Hon. Mr. McMurtry: The fact that we have these projects in only two different locations does not mean that this is not an issue in relation to crown attorneys' offices throughout the province, given our lack of resources. I will see if I have any other current information that may be of interest to Mr. MacQuarrie.

The directive I sent some time ago to all crown attorneys in relation to the issue I just mentioned stated that information should be provided to victims and witnesses in the criminal justice system, including a description of the system role to key players in the criminal justice process. Included in our pamphlet is information on obligations and rights of the victims and witnesses, explanation of a subpoena and enforcement of court orders, such as restitution orders and peace bonds.

This was prior to the pamphlet being distributed. While any of these projects that are being monitored by both our ourselves and the federal government are ongoing, we will continue to sensitize the crown attorneys' system as to the need to give these issues priority.

11:10 a.m.

Again, we are dealing with a traditional system, with which you are quite familiar, where with the great volume of cases and the work loads that are faced by crown attorneys and police officers getting their cases to trial and getting the witnesses in court, sometimes care is not taken to treat witnesses in a much more humane fashion and to make the whole process a less difficult emotional experience for them.

I think there is a sensitizing process that has begun in recent years. While much has yet to be accomplished, I am confident it will remain a high priority from here on in.

Mr. Breithaupt: There are several other items we could deal with before this vote is completed. Would you prefer we go on to another matter?

Mr. Chairman: We could carry on.

Mr. Breithaupt: One thing the Attorney General was going to get back to us on was with respect to Bill 29, the Estates Administration Amendment Act. The Attorney General will recall that I asked about the list of countries that were to be designated by regulation, the variety of eastern European countries concerning those claims which foreign beneficiaries might make. Can you now give us any further information as to the progress of the regulation and the listing of the nations, as you intend to do that?

Hon. Mr. McMurtry: The director of the policy development, Mr. Ewart, just returned this week and I have not had an opportunity of discussing this with him. Mr. Craig Perkins is here; he is in charge of that legislation from a standpoint of the policy development branch of the ministry.

Mr. Perkins, as I indicated to you and as you

have just reiterated, made suggestions earlier with respect to the countries that might be designated. I do not know if you have any follow up with respect to that. I know we have also communicated with some lawyers who are experienced in the field to get their input. Craig, would you like to address that.

Mr. Perkins: Certainly, thank you. The Attorney General has written to several of his colleagues. These are people who have a particular interest in this legislation because of the areas they represent in their constituencies. The responses have not yet come back. Indeed, I do not think we have had a response back from any of the people to whom the letters were sent, presumably because they are doing their own consultation with people in their communities. The letters have gone out and, as soon as responses are received, we will be bringing forward the recommendation for regulations.

There are two aspects to the regulations. One is the designation of countries, and the other is the procedures that are going to be required of people who are transferring funds in accordance with a court order to these foreign beneficiaries. That should not take us very much time to prepare. We have our ideas on what we want to require people to do, largely in terms of reporting what dollars they are sending out; what number of roubles, for example, the beneficiary is receiving at the other end; what fees they are charging for transferring the funds; and that kind of thing.

We are ready to bring forward regulations on the designation of countries. There are some obvious candidates—the Soviet Union, Czechoslovakia, Poland and Hungary. We are not sure whether the list should be extended beyond that or whether those four countries would be sufficient. We do know those countries are the source of virtually all, if not all, the complaints we have heard. That is where the matter stands at present.

Mr. Breithaupt: Thank you, Mr. Perkins. I agree with you that those four nations are the ones we too have been given background information about. They certainly are the ones that appear to be in this business, more so than the others.

I do find it unfortunate that after the several years now that we have been dealing with this theme even more time goes by without a list of the nations, even it was just those four to start with, and the completion of the regulation for the procedures as to the information you wish to get in each of these instances. All I can do is

encourage the ministry to try to get the responses it needs so that before the end of the year a regulation could be in place.

I had asked the Attorney General about making a statement in the House when the regulation was ready so that it would receive wider publicity because of the public interest than the simple publication of the regulation would do. I certainly look forward to that kind of statement being available before the snow flies, as we say. I think it is important to get a framework in place, even though the regulation might be further refined and changed six months down the line when some experience will have shown the need to do so. I would certainly encourage the completion of a regulation within the next several months, if that could be in any way accomplished.

Hon. Mr. McMurtry: I am confident it can be. I think within the next three or four weeks we will be making a statement in the Legislature.

Mr. Breithaupt: I certainly look forward to hearing that.

One other matter I wanted to raise briefly with the Attorney General is one that has been an ongoing matter of correspondence, the case of the claims involving Nancy Rotstein and her daughter and a person known as Mr. Jonathan Hunter. We have had some correspondence. Our last exchange of letters on this theme dealt with the signatures on various securities and questions as to whether they were forgeries and various investigations as to the validity of the signatures. Certain charges were laid and then those charges were withdrawn.

Your last letter to me on June 16 referred to involvements. I will briefly read one paragraph that dealt with the authorities to purchase various stocks for trading accounts which were opened in Mrs. Rotstein's name by Jonathan Hunter and claims as to forgery. Sergeant Derry was the investigating officer who spent some time with Mrs. Rotstein. Then you informed me that while the crown attorney, Norm Chorney, did not advise Mrs. Rotstein prior to withdrawing the charges of his intention to do so, he spent, as you have said, in excess of two hours with her about two days after the withdrawal in an attempt to explain his position.

11:20 a.m.

I now am informed by Mrs. Rotstein that there was no such meeting with Mr. Chorney, and I am at a loss to deal with the matter much further. She had written you a letter, delivered on August 3, setting out a further series of

comments with respect to the activities of Mr. Hunter and this whole very involved sequence. I would appreciate your attention at least to review this comment as to whether a meeting was held with Mr. Chorney or not since you had been advised it was.

Hon. Mr. McMurtry: Yes, that certainly is my information.

Mr. Breithaupt: Perhaps if you could take the opportunity to review this circumstance once more, we may be able to satisfy Mrs. Rotstein as to the circumstances and the propriety of dealing with those charges as they were done with.

I would just bring that one item to your attention with the hope that you might have the opportunity to review it.

Hon. Mr. McMurtry: Yes. I will try to get some information overnight and maybe have some more information for you tomorrow.

Mr. Breithaupt: If not, within the next period of time so that at least I can report and clear the matter.

Hon. Mr. McMurtry: Mr. Chairman, a question was asked about Bear Island. Mr. Blenus Wright is here. I know he is very pressed with some other matters, including Bear Island. The member for Riverdale (Mr. Renwick) was asking a question with respect to the status of the Bear Island action. With the permission of the committee, this would be an appropriate time for Mr. Wright to respond to the member's question, particularly as this matter has been the subject of a very important historic debate, the whole issue of aboriginal rights in the Constitution. I enjoyed listening to the member for Riverdale's contribution on Monday afternoon, in which Bear Island did feature at one point.

I have had a couple of very interesting visits to Bear Island myself in recent years and, obviously, my personal efforts at effecting a settlement were not very satisfactory. We have concluded our 65th day of evidence. I think you were interested in an update, perhaps in relation to that.

Mr. Renwick: Yes. Not only in the update now but in the light at the end of the tunnel.

Mr. Breithaupt: With the hope that it is not a train.

Mr. Renwick: I specifically tried to raise this problem in the House. As I understand it, there are two parallel activities going, one trying to persuade the band to settle apart from the legal process, and the legal process itself. I was trying

to make the point that until the legal issue, which seems to me to be fundamental in importance, is decided the band should not be in a position where it is being pressured to give up whatever its legal rights may be to accept compensation. I also would like to know your assessment of the case, exactly what state it is at, when you expect it to end, will there be an appeal and all of the—

Hon. Mr. McMurtry: Could I interject a light note? With respect to this matter of appeal, I remember a story that was attributed to Mr. Justice Walsh. When he was a prominent trial lawyer he was often in the Court of Appeal. Finally, the Chief Justice at that time, who was occasionally impatient with counsel, having seen Mr. Walsh several times that same week, asked Mr. Walsh whether he appealed all of his cases. Mr. Walsh said, "Oh, no, only the cases I lose." So I think when we talk about an appeal in this case, we had better leave with a judgement.

Mr. Wright: Mr. Renwick, I am concerned about saying too much with respect to the case itself, other than where it is at the moment, because I do not want to prejudice in any way that which the court has to decide.

Mr. Renwick: I understand that.

Mr. Wright: First, you reference settlement versus the matter being before the court. At the present time I am not aware of any settlement discussions or any pressure on the Temagami band to settle this case.

Mr. Renwick: I am delighted to hear that because there certainly were strong views that there was that kind of activity taking place.

Mr. Wright: I am not aware of those, if there are such. There were attempts to settle the case, but to my knowledge, for some time there has been no indication. I think at this point, with the evidence all heard, I would doubt very much if there would be a settlement because I believe the band wants a decision from the court.

Mr. Renwick: Can you hazard a guess as to when the trial will conclude?

Mr. Wright: The evidence has concluded. We are to appear before Mr. Justice Steele on Monday, October 31, with an outline of the issues as we see them in the case, and we are preparing that outline at the moment. At that time we will discuss the probable length of time it will take to prepare the argument and when we might be able to commence presenting the argument.

Mr. Renwick: I recognize and I appreciate

the effort and I cannot really ask any more questions in relation to it.

Mr. Chairman, if we are still waiting for the Attorney General's statement, perhaps I could complete the matters related to the other law cases involving the native community. When the Attorney General responded on that list, he itemized five specific legal cases, and I would appreciate a status report on each of them. Having dealt with the Bear Island Foundation and the Temagami band of Indians, the second one is the Skerryvore Ratepayers' Association versus Shawanaga band of Indians and the Attorney General of Ontario.

Mr. Wright: That deals with the question of whether the road going through the Indian reserve can be used by the public or whether it belongs to the Indians. We are attempting with the counsel for the federal government who is representing the band to agree to a statement of facts rather than having to go through a lengthy process such as we had in Temagami.

We have gathered together all the relevant documents we know are available. We have been putting them together in chronological order, and that is completed. We presented counsel for the federal government acting for the band with a draft agreed statement of facts. I just received that back yesterday with their comments, and that is where we are at the present time.

I think it will take perhaps a little time yet to determine whether we can agree on all the facts or whether we will have to have a short examination for discovery, but even in that event, I would hope the evidence called would be very minimal and then we could simply argue the legal issues.

Mr. Renwick: The third case was the Eagle Lake band of Indians versus Her Majesty the Queen in right of Ontario.

Mr. Wright: That one is basically still in the preliminary stages. We brought a motion for particulars as to their actual claim in that case. That deals with the question of whether the land covered by water between the projecting headlands is part of the reserve.

11:30 a.m.

Of course, in all these cases one of the main problems concerns court jurisdiction as to whether the case should be in the Federal Court or whether it should be in the Supreme Court of Ontario. That was one of the problems. I understand now that there are probably two actions, one in the Federal Court and one in the

provincial court, but we are still in the preliminary stages of that.

We are also going to try in that case to see if we can come up with an agreed statement of fact, once one has all the documents. Because they are ancient documents which basically speak for themselves, we hope to be able to agree on what those documents say as to the facts and then argue the legal issues.

Mr. Renwick: The fourth case was Cheechoo versus Her Majesty the Queen in right of Ontario.

Mr. Wright: I believe we recommended that not proceed to an appeal so that decision is completed.

Mr. Renwick: It is completed.

Mr. Wright: To my knowledge.

Mr. Renwick: The fifth one was Maracle versus Her Majesty the Queen in right of Ontario.

Mr. Wright: I am not aware at the moment that anything is taking place in that case. That involved the seizure of certain goods from Maracle under the Tobacco Tax Act. I believe at the moment it is basically dormant, but I would be glad to get you more details on that case.

Mr. Renwick: The last question is whether you are involved in the renegotiation of the 1924 Indian lands agreement.

Mr. Wright: I am not directly involved in that. We are having some legal input into the legal issues involved in those discussions. We have just recently—within the last couple of months—been asked for that legal input.

Mr. Renwick: Who is counsel acting on that case from the ministry? It is in the ministry.

Mr. Wright: Yes, but it is not in any action stage. Do you mean in our ministry?

Mr. Renwick: It is in the Ministry of Natural Resources.

Mr. Wright: Yes.

Mr. Renwick: That is the appropriate ministry that has—

Mr. Wright: That is right.

Mr. Renwick: Have you any other matters you are dealing with that relate to the Indian and native peoples?

Mr. Wright: Yes, there are a couple of other cases. One is a recent case in the area of Shannonville. The band there is claiming that a lease entered into with respect to 200 acres of land was not a valid lease. There is an action in

which the crown is being third-partied. The action is by the band against the residents of Shannonville who hold rights under the particular leases.

Mr. Renwick: Is that an ancient lease?

Mr. Wright: Yes. The crown is being third-partied by reason of the Lieutenant Governor's order in council which approved the lease at that time.

Then there is the Chippewas of Sarnia band claiming rights to the beds of the St. Clair River where the Ministry of Natural Resources has provided licences of occupation for the building of wharfs. The band claims it has never surrendered those water lots or the rights to the land underneath the water and is claiming the licences of occupation are invalid.

I believe there is one other in the Rainy Lake district, the Athabaska claim where the band is claiming a part of a reserve was never surrendered.

Mr. Renwick: Some 1,200 acres.

Mr. Wright: Yes.

Mr. Renwick: I have heard about that, but I have no specific details.

Mr. Wright: Although I have not participated in the negotiations, there have been extensive settlement negotiations for that particular claim. Although the band has now served its writ and statement of claim, we have been told that at the moment we do not have to respond to those pleadings in the hope there will still be an open door for settlement.

Mr. Renwick: Those negotiations are through the Ministry of Natural Resources.

Mr. Wright: Through the Ministry of Natural Resources. I believe those are the only ones that have actual court actions. We have requested from the Ministry of Natural Resources a list of all the land claims it has or is aware of at the moment. The reason we are doing that is that all those could be potential court actions. I simply want to know what is coming down the line because at the moment, as you can see, we have quite a few on our plate. They take a tremendous amount of work.

Mr. Renwick: When you do get that list, which I trust will not be too long, would it be possible for me to have a copy of it?

Mr. Wright: I do not see any reason why you should not have a copy.

Mr. Renwick: I am interested in the extent of the claims which may be out there, whether they have actually become legal issues or not.

The other aspect of it, because of the sense

one has that these things go on and on and never seem to terminate in respect of the land claims, is whether you would give any consideration to recommending to the deputy and the Attorney General that a special section be set up within the ministry, because of the particular area of expertise and scholarship which is involved, in order to pursue them so these matters can be dealt with efficiently and effectively in the ministry.

It is not in any way a reflection because I have some sense that Mr. Campbell's predecessor twice removed, Frank Callaghan, was the deputy at the time the Bear Island caution was first registered. I recall him expressing to me at that time that there were very basic, fundamental questions. Since then I understand an immense amount of archival research had to be undertaken, documents interpreted that have been very difficult to interpret, and a lot of scholarship involved in it.

Does it make sense now, because of that scholarship and knowledge about it, to look at the possibility of a separate section to deal with these matters?

Hon. Mr. McMurtry: As you know, a number of issues still have to be determined by the courts. I am not talking about the substantial issues of law, but issues related, for example, to what is admissible in evidence. We are dealing with matters that go back sometimes fairly deep into the mists of history.

11:40 a.m.

The expertise has been developed, both from a legal standpoint in our ministry as these matters proceed, and also on the part of the courts as they wrestle with some of these issues. As far as developing the expertise is concerned, an essential aspect to that is the experience that is now occurring. Without the experience in the courts and without the courts themselves having made some determination of some of these issues, one would be attempting to build up a cadre of experts in a vacuum, without really being qualified as experts, simply because we have not had a sufficient amount of jurisprudence to provide the necessary beacon lights as to how these matters are going to be determined in future.

Certainly, because of the enormous volume or burden that has been placed upon the ministry in relation to some of these native land claims and a number of other matters related to the Constitution, the Charter of Rights and other litigation that has been fairly highly publi-

cized, we would like to have additional resources. Quite frankly, we desperately need additional resources if we are going to keep up with this in the years ahead.

As to the extent to which we develop a special branch of the ministry, I think it is a little premature for anybody to comment on that, but we certainly agree with the need not only to develop this expertise, which is happening, but to maintain it and to obtain the additional human resources that are going to be necessary. It is a worrisome issue.

Mr. Renwick: Mr. Berger is now available for consultation by the provincial government on these issues.

Hon. Mr. McMurtry: Yes, and I look forward to my next meeting with my old friend Tom Berger. I am sure he will continue to have some interesting insights to offer.

Mr. Renwick: I have two other comments on this because I want to get some clarification. I do not have any sense of expertise about the question, but I had understood that when the federal government exercised jurisdiction under section 91(24) of the BNA Act, dealing with Indians and lands reserved for the Indians, the question of title was irrelevant, it did not matter whether title was in the Ontario crown or the federal crown.

During the course of the debate in the assembly on the resolution with respect to the process of amendment to the Constitution and the native people's process, I kept hearing the statement made that one of the stumbling blocks in settling some of the possible designations of areas within the Treaty 9 area as reserves was the problem of the conveyance of the provincial crown lands to the federal crown. I had thought that was irrelevant and that if the federal government properly designated lands as lands reserved for Indians, it would not matter who owned it.

Am I correct on that or could you help me solve that problem because I thought it was an irrelevancy?

Mr. Wright: If an Indian band makes a claim that it had not surrendered particular land—

Mr. Renwick: No, I was not speaking of unsundered lands. I was speaking of whether the federal government could designate—I think one of them is Fort Hope. There are a number of areas where bands or offshoots of bands have settled in the Treaty 9 area and there has been a vexed question of whether those lands would be designated as lands reserved for Indians.

Mr. Wright: They may or may not have a particular reserve at the present time, but they do have a claim that all of the land is in the crown in right of Ontario. The federal government must then come to the province, if the band is not satisfied with compensation and wants additional land, and Ontario must agree to convey those additional lands to the federal government.

Mr. Renwick: Is that not strange? My knowledge is relatively limited, but I had always understood the federal government could—I am not talking about overriding the Ontario government, but if it chose to override, it could simply designate those lands as lands reserved for Indians and it would not matter whether title was in the crown in right of Ontario or the crown in right of Canada because, constitutionally, that designation properly done by the federal government would be effective to designate those lands as reserves, and the actual title to the land is irrelevant to it.

Mr. Wright: If a court were to find that particular lands are lands reserved for the Indians by reason of the royal proclamation of 1763, that those lands have never been surrendered, and that those lands come within the definition of lands reserved for Indians under section 91(24), then you may be correct.

Mr. Renwick: My last comment is one I raised in the House because it has been a matter of deep concern and it is why I made the reference to Thomas Berger. Let me make a broad assumption, which I am sure will not go, but let me make it regardless of what the future may hold about it being inaccurate. Let me assume for the moment that the process under Treaty 9 and the accession of lands to the province in whatever it was, 1923 or 1924, was all done properly and that the native peoples totally surrendered all of their rights and do not have any further claim.

If one reads the negotiations and the process that was involved, regardless of how within the context of legitimacy it was—I am not attacking the motives of anyone. How could I? The archbishop of the Anglican Church was involved in the negotiations by canoe at the time it was done.

I just do not think it is possible for us sitting here today to read that treaty, with all the surrounding circumstances, without coming up with the conclusion that as a matter of equity it is an unconscionable treaty and should be looked at from the point of view of the renegoti-

ation of that treaty in relation to the consideration which moved from the crown to the native peoples under that treaty in relation to that immense and vast tract of land that ultimately became part of the province in settling the present boundaries.

I do not think anybody could read it and not say there is such a disproportion that it would be an unconscionable transaction, almost to the point where one could say there had been no consideration for that treaty. I am making a broad assumption. Would the ministry consider looking at that treaty from that point of view in relation to the kinds of questions the Attorney General addressed in his article in the *Queen's Law Journal* and which were part of the debate, namely, the question of natural resources, the interests of the Indian communities in their natural resources, to see whether there is not a ground in equity for making a recommendation to the government of Ontario and the government of Canada to renegotiate the terms and conditions under which that vast tract of land was acquired by the province of Ontario from the native peoples?

Hon. Mr. McMurtry: I do not think we can look at these issues in isolation from the whole process as it affects all the provinces. I would be the last person to attempt to suggest the process was a fair one. I do not think any commentators have attempted to say the native peoples were treated fairly, not only in relation to this matter but in a number of other issues as matters turned out.

11:50 a.m.

I think one has to look at some of the unhappy history that undoubtedly is there in conjunction with all the other issues that are part of the constitutional process and what might occur outside the constitutional process. When one is dealing with these issues that are of such enormous importance to all the people of Canada, not just to the native peoples, one has to look at them in the national context and not just in the context of one treaty.

Notwithstanding the fact that was a very important treaty and it involved a great deal of land, I think the great majority of the public—unfortunately not the public in its entirety but the majority—wants to see our native peoples treated fairly to the extent these matters can be resolved fairly in the 1980s. As the Prime Minister has pointed out on a number of other occasions, one cannot rewrite history.

Mr. Renwick: It is perfectly clear that it allows itself to be interpreted any way one wants to have it stated. I was afraid you were going to repeat that remark of his because it is possible in the case of Treaty 9 for Ontario to be involved in it. It is not the question of Treaty 3 or the Robinson-Superior, the Robinson-Huron or other treaties on a national basis at all.

The reason I have excepted Treaty 9 is that for practical purposes Treaty 9 was a tripartite operation, although in formal legal terms Ontario was not involved in it in the sense that it was tripartite clear, but the whole purpose of the Treaty 9 operation was with respect to Ontario's interest. Ontario's interest is such that it still has and did get that vast tract of land for practically nothing.

I am not an antiquarian as far as the Legislature is concerned, but the reason I know this is that some years ago there was an item in the estimates of the then Department of Lands and Forests which said, "Indian claims, federal government, \$40,000." I asked what it meant. I could not figure out what it was, but the Ontario government was paying the federal government the number of dollars the federal government was required to pay under Treaty 9 with respect to whatever that annuity is under that agreement.

If it is of any use, I can find it. That was some years ago. Ontario was paying the money the federal government had to pay under Treaty 9, which was the sole pecuniary benefit for the native people. They may have had other ancillary benefits. Of course they did, but the pecuniary benefit of the annuity was that the Ontario government was paying the federal government so the federal government could pay the native peoples who were entitled to that disbursement of funds.

Strangely enough, that has disappeared from the estimates and I do not know what the arrangement is now. Maybe it was such a nominal amount the federal government now pays it. But Ontario is intimately involved in Treaty 9 in a way it is not involved in the other treaties. I think the unconscionable nature of that treaty impinges on Ontario, not necessarily along the historical course of the other treaties.

Hon. Mr. McMurtry: As I see the process, we are dealing with a number of issues. Fundamentally, I guess we have approximately 70,000 status Indians living in Ontario plus a fairly significant number of nonstatus Indians and

perhaps an unknown number of Metis, all of whom have special needs. The historical record, as far as I am concerned, requires that government address these needs and aspirations.

On the one hand, we have what is going to happen through the courts where individual bands may or could end up with significant resources that obviously may be not available to other bands. Who is or is not going to be favoured through the court process, of course, is something one can only speculate about.

Apart from that, because of the unhappy historical record, the needs and legitimate aspirations of our native peoples must be addressed across the board, quite apart from any rights that may be asserted and declared by the courts. In that context I think that one has to take sort of a general rather than a pragmatic approach. Rather than trying to renegotiate a specific treaty, we must look at the needs and aspirations and to what extent they can be addressed across the board for all native peoples, not just the descendants of a particular tribe or area. That is not to suggest that those descendants are not entitled, as of course they are, to assert their rights in the courts.

The pragmatic decision facing government is in the context of overall needs, what resources can be generally allocated across the board to these important priorities and initiatives. I would hope that when the government addresses these needs it would be very mindful of some of the unhappy historical records to which you have referred. I would hope that would motivate this government and future governments to be as generous as possible across the board.

I think one will require a good deal of public support for this because we are dealing with taxpayers' resources. This is why, as I suggested in the Queen's Law Journal article and elsewhere, I think this process is very important. Apart from anything else, it is educating the public not only to the historical record but to the issue as a whole to an extent that the public has never been educated before.

Certainly, what the public knows now compared to what it knew as recently as several years ago is somewhat different. But there is a great deal to be done. Until relatively recently I do not think the majority of the public was even aware that these claims were being made, let alone any ignorance there might be with respect to historical records.

As this ongoing constitutional process pro-

ceeds, educating the public is pretty fundamental to what resources are going to be allocated in the future to address some of these historical wrongs.

Mr. Renwick: I appreciate those comments, and perhaps for the time being the question of the Indian land claims is finished.

Mr. Chairman: Thank you, Mr. Wright. Gentlemen, unless there is anything further to add, I think we should proceed to vote 1403.

Mr. Renwick: Mr. Chairman, could the Attorney General clarify if we are still waiting for something to come?

Hon. Mr. McMurtry: We are still going to have a statement this morning.

12 noon

Mr. Breithaupt: While the Attorney General is reviewing the statement, Mr. Chairman—

Hon. Mr. McMurtry: Could I just look at this for a moment?

Mr. Breithaupt: —if you wish, we could formally carry vote 1402. I am quite prepared to have vote 1403, the guardian and trustee services program, and vote 1405, the legislative counsel services program, pass without any comment. We could then turn to vote 1404, the crown legal services program, which will no doubt have a variety of comments from members. If we proceeded by presuming that there were no issues in either vote 1403 or vote 1405, then those staff persons from the official guardian and the public trustee and legislative counsel would be relieved from attending, although I am sure they enjoy their annual visit.

Mr. Renwick: I have a matter I want to raise with respect to the public trustee. I would suggest we get on with vote 1403, on which we have been marking time, and then go back to the estimates. Are there copies of the statement, sir?

Hon. Mr. McMurtry: Yes. There is no reason why they cannot be distributed at this point.

The Deputy Attorney General has brought to my attention that the official guardian is here and has been waiting all morning to deal with the Karafile matter.

Mr. Breithaupt: It is a matter that I had raised. If he is able to do so, that would be fine.

Hon. Mr. McMurtry: Maybe that could be done, but I do not know how relatively briefly, in order that he may be free to go. I did not realize he had been waiting here all morning on that issue. I know Mr. O'Brien has been here for

several days waiting for this matter to be dealt with. I think this is Mr. O'Brien's third day here.

Mr. Breithaupt: If we are able to deal with that, perhaps we would be able to handle that. There are a lot of other matters under the vote other than the one to which I had referred. If we are able to, it would be just great to go ahead with that.

Mr. Chairman: The official guardian?

Mr. Breithaupt: Yes.

Mr. Chairman: Could we have the two gentlemen to the front table, please?

Mr. Renwick: Not the public trustee, the official guardian.

Mr. Breithaupt: If you would like then, Mr. Chairman, we could carry vote 1402 and we could proceed with vote 1403.

Mr. Chairman: I believe we carried vote 1402 on Thursday, October 13.

Mr. Breithaupt: Yes, I did not know you had gone through the format. Fine, thank you.

Mr. Chairman: Would you like to proceed with your comments?

On vote 1403, guardian and trustee services program; item 1, official guardian:

Mr. Perry: I was advised that this matter had been raised before this committee and I was requested to attend, which I obviously have. I have some apprehension about making any unsolicited observations with respect to this matter, because I am sure the members of this committee will agree that I must maintain strict confidentiality with respect to minors and their families whom I represent.

I understand that this matter has been raised by a third party who is not involved with the Karafile case. That, of, course adds to my apprehension with respect to what I should say.

Perhaps, Mr. Chairman, I should simply advise the committee, in the context of the observations I have just made, that I am prepared to answer any questions with respect to concerns committee members may have regarding the Karafile case.

Mr. Breithaupt: Mr. Chairman, there were questions with respect to procedures but, as it was explained to me, I think most particularly about the order of the court to have the child remain in the matrimonial home. That may be interpreted as a home, rather than that particular address; I am not certain of that.

That was the theme and, of course, as the Attorney General is well aware, there have been a variety of questions raised by a third party, a

constituent of the Attorney General as it so happens. The Attorney General, I believe, has been involved in much of the correspondence and background on this issue and the views of his constituent as to how this matter was handled.

Mr. Perry: Mr. Chairman, I have read voluminous correspondence among the constituent, the Attorney General and X number of public officials. One of the concerns I have expressed, in correspondence to the constituent and otherwise, is that the constituent, Mr. O'Brien, does not appear to have adequate and accurate information with respect to the sequence of events which led to the eviction of Mr. Karafile. In particular, he is misinformed as to the role the official guardian's office has played in the entire matter. If it would be helpful to the committee, perhaps I could briefly address those two issues.

Mr. Breithaupt: The official guardian may resolve the difficulty that has arisen so that we at least have the statement of the official guardian, as to the sequence, clearly before us.

Mr. Perry: I have a very brief summary of the chronology.

Mr. Karafile and his wife were separated in 1976 and, subsequent to that separation, there was a motion to partition the matrimonial home and an order was made in the Supreme Court of this province directing that the home be sold and the matter referred to a master to work out the mechanics of the sale, which it was determined should be by auction.

At this time, the official guardian was not involved at all in the proceedings. When we became involved to represent the child of the marriage, the order to partition the home had been made. There had been proceedings before a master of the Supreme Court to work out the procedure and, as I have said, a direction was made that the home should be sold by auction.

Apparently, there was considerable negotiation between Mr. and Mrs. Karafile with respect to the possibility of Mr. Karafile purchasing his wife's interest, but nothing of a substantive nature occurred regarding those negotiations. There was considerable difficulty between Mr. and Mrs. Karafile with respect to the terms or any possible agreement which would enable Mr. Karafile, who obtained custody of his son, to remain in the home.

After we became involved, my counsel very gratuitously provided Mr. Karafile with a variety of advices to diffuse the issues between the parties with respect to the home, although that

was not our concern. None of the suggestions made by Mrs. Freedman, my counsel, was acceptable to Mr. Karafile.

The property was quite legally sold to a developer, who we were advised did not intend to utilize the property. Mrs. Freedman suggested that perhaps an agreement could be arrived at between Mr. Karafile and a legal purchaser to enable him to rent the premises so that the boy, who was then 12 years of age, could remain in the home.

Mr. Karafile's view, of course, was that he still owned the home in spite of the court order to the contrary, and he refused to negotiate rental. Then, of course, there was a quite legal and valid order to evict Mr. Karafile.

We attempted to persuade Mr. Karafile to keep the child out of those proceedings, the actual eviction. Unfortunately, the child was taken out of school and was in the home when the eviction order was executed. This caused me personally considerable concern because it seemed unfair that the child should be involved in this essentially legal proceeding.

12:10 p.m.

Mr. Karafile was evicted and obtained other accommodation and, so far as I am concerned, my file was closed—as much as my files are ever closed, because I would reopen my file if new circumstances occurred which would require my assistance. My only involvement now has been correspondence with Mr. O'Brien with respect to the matter.

That is the chronology and that is the nature and extent of our involvement. We represented the child in a manner which satisfies me was in the child's best interest in the custody proceedings which was the sole interest the official guardian had in this matter.

That matter was resolved by the court and indeed Mr. Karafile was awarded custody of the boy. That is consistent with the boy's wishes and consistent with the psychological assessments that had been made prior to the court's order.

Mr. Breithaupt: How old would the boy be now? When was that order made, when he was 12?

Mr. Perry: I think the boy could be 13 or going on 14.

Mr. Breithaupt: About two years. I thought that was about it.

Are there then any further involvements which the official guardian would have in this circumstance now?

Mr. Perry: No, sir, I see no reason for our involvement at this time.

Mr. Breithaupt: In speaking with Mr. O'Brien, Mr. Chairman, there were questions raised as to the purchaser which Mr. O'Brien stated was a credit union and not a developer. There were other questions as to the negotiations.

I do not know how we can immediately resolve this. Perhaps a way to deal with it, now that the official guardian has made comments about this matter, would be to ask Mr. O'Brien to perhaps write again to either the Attorney General or to me with the additional questions that, from his point of view, require answers and we would attempt to get the answers to those particular matters.

It is otherwise difficult, of course, in a committee of estimates, where a citizen has a variety of questions but, unfortunately, in our procedure does not have the opportunity to put them directly but only through issues which can be raised by members of the committee. There may be further details, as the Attorney General is well aware, as Mr. O'Brien's member of the Legislature, which can only come out through additional correspondence or through requests for further information.

Perhaps if we are able to deal with it in that way we can proceed further to try to get more information and the points which Mr. O'Brien has raised resolved.

Hon. Mr. McMurtry: Yes, we will attempt to deal with any other questions that Mr. O'Brien chooses to raise by correspondence to the extent that we can in the circumstances, bearing in mind the official guardian's comments as to our limited mandate in this matter.

Mr. Breithaupt: Perhaps then, in the presence of Mr. O'Brien at the committee today, if he will provide a further list of the points that he wishes to have raised, he may do so either, of course, directly to the Attorney General as his member of the Legislature or, if he chooses, to write to me and have them passed on. However it may be, we will try to get the answers to the additional questions if Mr. O'Brien is content with that suggestion.

I believe that will resolve that particular point. We have gone perhaps as far as we can practically go on that subject today.

Mr. Chairman: Mr. Renwick, did you have a question or two for the official guardian?

Mr. Renwick: No, Mr. Chairman.

Mr. Chairman: If not, thank you very much, sir, for appearing.

Mr. Breithaupt: Mr. Renwick, I believe, had a question of the public trustee.

Mr. Renwick: Yes, but I thought we were going to defer that and proceed with the Attorney General's statement, as I understand it.

Hon. Mr. McMurtry: Thank you very much, Mr. Perry.

Mr. Chairman, we have circulated copies of our statement and copies of the Supreme Court of Canada decision in the Buchbinder case. Perhaps it would be appropriate for me simply to read my statement at this time.

Last week, reference was made to a decision by the Supreme Court of Canada in cases involving procedures by citizens in laying criminal charges and the role of the Attorney General in entering a stay of proceedings in certain circumstances.

Several members asked that I obtain for them copies of the decision. I have done that and attached to it is a copy of a statement that I am now making in this regard.

By way of brief background, let me explain that two citizens swore allegations against members of the Royal Canadian Mounted Police. In the first matter, Howard Buchbinder swore an information before a justice of the peace on December 10, 1980, alleging that unnamed members of the RCMP were in possession of goods stolen from the offices of an organization known as Praxis. The matter was adjourned to January 9, 1981, for hearing. At that time, three further informations were sworn against unknown persons alleging possession of property under a value of \$200.

On January 9, 1981, a senior crown law officer appeared on behalf of the Attorney General and instructed the clerk of the court to enter a stay of proceedings pursuant to section 508 of the Criminal Code.

In the second matter, on April 25, 1980, and June 26, 1980, a number of informations were laid before a justice of the peace charging RCMP officers with forgery, uttering false documents and conveying false messages contrary to section 326.1 and sections 330 and 324 of the Criminal Code. A senior crown law officer appeared for the Attorney General and was accorded status by the justice of the peace.

A number of adjournments were sought and obtained by the crown in order that the criminal investigation by the Ontario Provincial Police into the very matters before the court could be completed.

On October 30, 1980, the criminal investigation having been completed, the senior crown

law officer appeared as counsel for the Attorney General and entered a stay of proceedings pursuant to section 508 of the Criminal Code, having been so instructed by the Attorney General.

In a nutshell, the informations were sworn to—that is to say, were laid—before the justice of the peace pursuant to section 455.3 of the Criminal Code.

Prior to the justice of the peace hearing witnesses for the informant as he is entitled to do if he sees fit, pursuant to section 453.3, the stays were entered, pursuant to section 508.1 of the Criminal Code.

The informants, through their counsel, sought mandamus to compel the justice of the peace to hear witnesses even though the stays had been entered.

12:20 p.m.

Mr. Justice Montgomery of the Ontario Supreme Court denied mandamus and held that the Attorney General could stay prior to the issuance of process.

The informants then appealed to the Ontario Court of Appeal which unanimously, presided over by Chief Justice Howland, Mr. Justice Arthur Martin and Mr. Justice Maurice Lacourciere, upheld the decision of Mr. Justice Montgomery.

The informants then obtained leave to the Supreme Court of Canada and the appeal was thereafter argued and judgement delivered by the court on October 13, 1983.

The sole issue in the Supreme Court of Canada was stated as follows: "Is the Attorney General of Ontario empowered by section 508.1 of the Criminal Code to direct a stay of proceedings after an information has been received but before the justice of the peace has completed an inquiry under section 455.3 to determine whether process should issue against the accused?"

Crucial to this issue was the question of when a prosecution can be said to have been commenced. The Supreme Court held that a prosecution commences only after the justice of the peace has made a decision to issue process.

The Supreme Court of Canada disagreed with both Mr. Justice Montgomery and the Ontario Court of Appeal and held that the power to enter a stay under section 508.1 does not arise until the moment a summons or warrant is issued by the justice of the peace.

In its reasons for judgement, the court rejected the three reasons advanced by the Ontario Court of Appeal in its decision. The Supreme

Court interpreted the phrase "after an indictment has been found" in section 508.1 as meaning after the justice of the peace has decided to issue process.

The Supreme Court of Canada, in the course of delivering its judgement in *Dowson*, has held that "a prosecution commences only after the justice of the peace has made a decision to issue process, an information has been found only after that decision." This, in our view, is a new departure, because prior to this decision it had been thought that a prosecution commenced with the laying of an information.

The Supreme Court of Canada appears to have based its decision largely on its view of the importance of the public accountability of the Attorney General.

Interestingly enough, the Ontario Court of Appeal, in the judgement of the Chief Justice of Ontario, concurred in by Mr. Justice Martin and Mr. Justice Lacourciere, had also referred to the public accountability of the Attorney General as one of the reasons for upholding the action taken by the crown law officers in this case. The judgement of Mr. Justice Montgomery of the Supreme Court of Ontario also refers to that same principle of accountability as a reason for upholding our course of action, as did the Court of Appeal, for coming to a conclusion quite opposite to that of the Supreme Court of Canada.

All of the four judges of the Supreme Court of Ontario who upheld the actions taken by the crown law officers agreed that the public accountability of the Attorney General was an important element in the issue of the power to stay proceedings. The Supreme Court of Canada which overruled those judgements also considered accountability to be an important issue. The courts simply differed on the question of timing and whether the jurisdiction to enter a stay of proceedings arises before a justice of the peace has decided to issue process or after a justice of the peace has decided to issue process.

As can be said by the various judgements of the different courts, this is an issue on which very experienced and distinguished judges have differed. The Supreme Court of Canada has had the last word, as it must in our system, and the legal issue has now been resolved.

In conclusion, I hope there is no misunderstanding on the question of accountability. Members who have followed this issue over the years will know that I have given a full accounting of the crown's activities in this matter. I have made statements and answered questions in the

Legislature. I have corresponded with members of the Legislature and with members of the public. Crown counsel have submitted in court lengthy explanations of their activities in this regard and these details have been distributed publicly.

Finally, Mr. Chairman, let me assure the committee members that the accountability of the Attorney General and of the law officers of the crown will continue to be of the highest priority.

Mr. Renwick: Mr. Chairman, let me pick up two or three things still outstanding from quite some time ago. In the justice committee on December 11, 1981, on pages J-601 to J-603, we had a discussion in this committee, sir, about this. You asked your then Assistant Deputy Attorney General, Mr. Roderick McLeod, to comment, which he did. I do not intend to read all of this into the record. I think the part which is not self-serving that I want to quote to simply point out is as follows:

Mr. McLeod had given some dissertation before, and so on. Then I intervened to say:

"What is your intention with respect to the Praxis matter? Are you saying, throughout all of that, that the OPP investigation is not going to be reopened, that there is no further information or evidence of any kind and you are not going to pursue the matter, or what?"

Mr. McLeod responds: "At this stage all I can say is that Mr. Copeland's letter of October, as I said, will be answered by us after the Supreme Court of Canada decision. We have to be a little careful in this forum because that matter is still before the court. As of this date, to my knowledge there is no evidence to warrant our coming to the conclusion that we should invite the OPP to reopen the investigation.

"Mr. Renwick: I recognize that the Supreme Court has reserved its decision on it, but I have great difficulty in understanding why you would not allow the matter to proceed on information by a private citizen.

"Mr. McLeod: I think one has to go to the detailed statement given by the minister in May 1980, where the reasons are set out. Secondly, as a crown law officer having advised the police in the course of that investigation, I am in the position where, even in this forum, I cannot discuss in detail all of the things that were reported to me by the police as being matters uncovered in their investigation."

It then went on and said: "All right, you will have to wait."

The time has now arrived. There are three or four points that I would like the Attorney General to address.

Hon. Mr. McMurtry: Bear in mind, Mr. Renwick, that I have not reviewed the Praxis matter for a very lengthy time, but I will attempt to. We will be looking at the matter, of course.

Mr. Renwick: The matter that I would like to refer to—Mr. McLeod is now Deputy Solicitor General in the Ministry of the Solicitor General. Mr. Paul Copeland, who is counsel in the matter, wrote on October 9 to Mr. McLeod, to which letter reference is made. That is the letter to which a reply has been promised when the Supreme Court of Canada decision was made.

I would like to know the intentions of the ministry with respect to that letter. The letter is generally available. I do not think I need to put it in its full context. I do not think I need to read the whole of the letter. It is available, obviously.

But Mr. Copeland did say, after reciting the information that he wanted to convey to Mr. McLeod: "If you are in a position to give me a moderately detailed explanation of the reasons why the possession of stolen goods charges were not laid and were stayed, perhaps I could stop all of the litigating and criticizing I have been doing.

"I suppose that the reasons may deal either with the problems of proof or a decision made on the basis of prosecutorial discretion and that, in the circumstances, it is not appropriate to prosecute the officers.

"In any event, I would appreciate knowing from you what decision was made regarding the recommendation contained in paragraph 5 in detailed summary no. 28 of the McDonald commission report."

My first question is, simply, may Mr. Copeland, as counsel in the matter, now expect to receive from the ministry a response to that letter?

Hon. Mr. McMurtry: Yes.

Mr. Renwick: It is yes?

Hon. Mr. McMurtry: Yes.

Mr. Renwick: My second comment is that the decision which you made available to us is the decision in the Dowson matter. I just assume, for the purposes of the record, that the court simply said that the reasons in Dowson applied to the Buchbinder matter. Is that correct? Do I have—

Mr. Breithaupt: The second page.

Mr. Renwick: I do have. I am sorry. Thank you, I appreciate that.

12:30 p.m.

The third comment, then, is with respect to the Attorney General's statement. I admired the statement because it indicates that it was sort of a one-hand or other-hand situation. The Court of Appeal gave the same reasons as the Supreme Court of Canada, but the Supreme Court of Canada came down with a different decision. Let me, in a mild way, quarrel with this.

Even in a brief, cursory reading of this judgement, on the question of accountability Mr. Justice Lamervery clearly says that, "When one adds to these considerations the fact that, apart from the court's control, the only one left is that of the legislative branch of government, given a choice, any interpretation of the law which would have the added advantage of better ensuring the Attorney General's accountability, by enhancing the legislative capacity to superintend the exercise of his power, should be preferred."

"An historical review of the evolution of the crown's power to avoid the preliminary inquiry of the grand jury indicates an intent on the part of parliament to increase the Attorney General's accountability."

I take it that this means the member for Kitchener (Mr. Breithaupt) and myself, who are charged with the responsibility in the opposition of questioning you on these matters, are completely at a loss to question you when—as the courts now hold—at that very time you intervened to stay the proceedings.

Hon. Mr. McMurtry: I do not know how you reach that conclusion.

Mr. Renwick: Well, at least when the justice of the peace will hear and determine, as he is now required to do, the accountability to the Legislature will be increased because we will have some knowledge of the kind of matters which can come before the justice of the peace.

Mr. Breithaupt: Or the reasons that the justice of the peace might give.

Mr. Renwick: Yes. The reasons which he may give, one way or another.

Therefore, the process is at the point where, sitting in the Legislature on the question of accountability, we have some place to hang our hat. In the assembly, we were operating in the dark because the justice of the peace had never been able to give any indication of what the process was going to find.

Therefore, in that sense, I disengage myself a little bit from the "on the one hand/on the other

hand" side of the situation and say that the Supreme Court of Canada, in a very difficult situation, obviously said that in this process, which they have now directed, without interfering with the time at which quite legitimately it may be that the Attorney General could stay the proceedings, at least a person sitting in the Legislature will have some background on which he can intelligently question, rather than being, as we were, blindfolded in the sense of not having any knowledge with which to question appropriately.

Hon. Mr. McMurtry: Of course, I could not disagree more with what you are saying as to what actually happens on a day-to-day basis. The number of cases in which the justice of the peace gives reasons or hears evidence is less than a fraction of one per cent. It is very rare for a justice of the peace to give reasons or, indeed, in this province it does not often happen that the judge or the justice of the peace hears evidence for the record. We can discuss that.

Probably in 99.9 per cent of the cases, the justice of the peace just issues process. Therefore, the public or the Legislature is not going to know any more or any less if the Attorney General decides at that stage to stay the proceedings. It is still a matter of being questioned in the Legislature. You are talking about such an infinitesimal number of cases where you are going to have any additional information by reason of this decision that I just think you should keep that in perspective.

Mr. Renwick: Maybe that opens another question of the process by which in fact accountability must be increased in situations where, as the court said, this is the "immemorial important right of the individual citizen." If the process has become sloppy over time, then we are greatly indebted to Mr. Copeland for having pursued the matter, in the face of the decision of the Court of Appeal of Ontario, to the Supreme Court of Canada, because it may be that the court is saying, "It is now up to the Legislature."

If it is going to exercise its accountability, it may well be a requirement that the process before the justice of the peace be improved, so that people do know what the justice of the peace is deciding—maybe not in every case, where it is not of great significance because the information is satisfactory, but in cases where there is obviously a difference between the position of the crown and the position of the private citizen, the justice of the peace should feel free to give his decision, or give reasons, or

to have the proceedings recorded. Maybe this will help.

Hon. Mr. McMurtry: In our view, it is clearly a matter for the Parliament of Canada to set down the procedure for the justices of the peace as to when it would be appropriate, not when they can hear evidence, but to what extent a record should be kept of this, so far as the giving of reasons is concerned.

We are dealing with still-uncharted waters, until the federal government comes to grips with what amendments should be made in the Criminal Code. In this case, the Dowson case, when crown counsel stayed the proceedings in open court, they gave a very extensive set of reasons as to why they were staying proceedings.

Mr. Renwick: But not in Buchbinder.

Hon. Mr. McMurtry: My memory is not as clear on the Buchbinder case, but it seems to me that I made a fairly extensive statement in the Legislature about that.

Mr. Renwick: That was the one that was introduced into the court for the stay of proceedings, in Buchbinder.

Hon. Mr. McMurtry: Yes. I recall making a fairly extensive statement to the Legislature on Buchbinder. In these particular cases, when we stayed the proceedings, we felt that it was important to inform the Legislature as fully as we could, and we did.

But in any event, this one aspect of the law has been clarified by the Supreme Court. However, I do not think the matter can be satisfactorily dealt with, in so far as clarifying just what should be a matter of record in any proceedings before a justice of the peace, until the necessary amendments to the Criminal Code are made.

Obviously, I cannot speculate as to what was going on in Mr. Justice Lamer's mind but, as you know, the *pré-enquête* proceedings in Quebec are conducted in a much different manner than what has been the practice here.

Mr. Renwick: It is a pretty good court that concurred with him: the Chief Justice, the former Chief Justice of Ontario, Mr. Justice Estey, Mr. Justice Dickson.

Hon. Mr. McMurtry: I am not quarrelling with the court. I am just saying that we are still dealing with a lot of uncharted waters, and the Court of Appeal dealt with the accountability of the Attorney General and, of course, upheld Mr. Justice Montgomery and a very distinguished court. This is why I simply said in my statement, "distinguished judges do often dis-

agree," particularly so in matters that have a fairly technical content. But both courts talked about the accountability of the Attorney General, and came to different conclusions.

Mr. Renwick: I hope that, as a result of this case, we do not get involved in another series of technicalities. I would have assumed that the administration of justice was such as to permit what the court has said, "the better ensuring of the public accountability of the Attorney General," and that if there are problems with respect to recording the proceedings before the justice of the peace, or with respect to the public knowing why the justice of the peace decides one way or another, we would not have to wait for the Parliament of Canada, that would be a matter devolving on the Attorney General of Ontario as the person charged with the administration of justice to take the spirit of the decision.

12:40 p.m.

Hon. Mr. McMurtry: The decision is the law of the land. There is no question about that.

Mr. Renwick: If there are problems about recording and dealing with it, that is strictly administration and the spirit of the judgement is a very—

Hon. Mr. McMurtry: I do not agree with that. It is not strictly administration at all. You may be dealing with substantive matters of criminal procedure. It is not purely an administrative matter.

Mr. Renwick: If there has been a sense of distance developed between the crown and counsel for Mr. Buchbinder on the Praxis matter, I would hope that there is room now for a proper meeting between counsel and the ministry senior counsel in order to look objectively and clearly at this matter because of its obvious immense importance—not just as to Buchbinder, but its very real importance which, over time, a number of questions in this assembly have raised on the role of the RCMP and what took place in Ontario.

When you bear in mind what was done by the RCMP, that not a single, solitary case has been brought in this province that I know of by the crown in any matter related to those activities, many of which were designated as illegal, I have always found passing strange and I have expressed myself about it before. I do not think I need to go on further on this matter.

Hon. Mr. McMurtry: The Deputy Attorney General has already had one conversation with

Mr. Copeland and has assured him that we would be responding to his concerns.

I just want to make it very clear that there are some people who would like to create a sort of smokescreen in this whole matter in relation to the attitude of the Ministry of the Attorney General with respect to charging police officers and to suggesting that there is some reluctance on the part of the Ministry of the Attorney General in charging police officers who have broken the law.

This smokescreen that has been set up, I think quite irresponsibly in some quarters, just tends to obscure the historical record. The fact of the matter is that the Ministry of the Attorney General has never shrank from its responsibility of laying charges against police officers who break the law. Certainly, the RCMP is in no more a privileged position than any other police force.

When one looks at the number of charges and vigorous prosecutions that have been engaged in by this ministry over the years, I have to say that the impression some people are attempting to create is quite erroneous because we have never shrunk from our responsibility in that respect.

In talking about this smokescreen, I am talking about what has happened over a couple of years. I am certainly not associating Mr. Copeland, who is here, with this smokescreen because I think Mr. Copeland has handled and continues to handle this matter in a highly professional manner.

I am talking about comments that have been made in a number of quarters in recent years to suggest that the Ministry of the Attorney General is somehow reluctant or overly protective of police officers. As I say, that is just totally at odds with the historical record.

If there are reasonable and probable grounds in which to charge a police officer in this province, the charge will be laid. Charges have been laid unless there is some clear public-interest reason for not doing so. As a matter of fact, and I have said this with reluctance to this committee before, we have had a considerable amount of criticism, I think unjustified as well, from police quarters in this province, alleging that we are often more interested in prosecuting police officers than other members of the community who break the law.

It is just another one of the gentle ironies that one faces in public life. That is a part of the joy

of being in public life. On the one hand, you have people who say we are overly protective of police officers, and yet we get a very different message from the police who complain that we are overly vigorous.

The fact is, we attempt in every case to be as fair and objective as possible in approaching these matters. But the public interest must prevail in every single case, whether it is a charge against an individual citizen or against a police officer. All citizens, whether police officers or not, are treated on the same basis. That has been the policy of this ministry and will continue to be the policy—

Mr. Renwick: That was not the particular issue in this case. We are talking about the RCMP performing its security role, not its police function, and whether or not in the course of performing that security role they in fact breach the law of the land. The question is not resolved yet; it is up front and centre again in Bill C-157.

The question is still there. The concern is the extent and degree of the reasons for—I think we can go on with matters of negotiation which Mr. Copeland has set out in his letter—why the stay was entered, why reasons were not given other than to repeat in the Buchbinder case the statement made by the Attorney General in the Legislature rather than, as in the Dowson matter, to give a full and complete statement to the court. I appreciate the Attorney General's prompt attention to this matter.

Hon. Mr. McMurtry: As I say, we will be meeting with Mr. Copeland, and hopefully we will be able to provide a satisfactory response.

Mr. Breithaupt: Do you wish to proceed now, Mr. Chairman, with the public trustee?

Mr. Renwick: Could I ask that we adjourn now?

Mr. Chairman: Before we adjourn, could we carry vote 1403, item 1?

Mr. Renwick: The official guardian?

Mr. Chairman: Yes.

Mr. Renwick: Yes, I can carry that.

Mr. Chairman: We could start tomorrow with the public trustee.

Mr. Renwick: I appreciate that.

Mr. Chairman: Shall vote 1403, item 1 carry? Item 1 agreed to.

The committee adjourned at 12:41 p.m.

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Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice
Estimates, Ministry of the Attorney General

Third Session, 32nd Parliament
Thursday, October 20, 1983

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, October 20, 1983

The committee met at 3:42 p.m. in room 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

(concluded)

On vote 1403, guardian and trustee services program; item 2, public trustee:

Mr. Chairman: The meeting will come to order, please. The clerk has and will distribute to the committee two documents prepared by the Attorney General on race relations.

Hon. Mr. McMurtry: Mr. Renwick, I think you are on.

Mr. Chairman: The public trustee is here. I think the members recognize the distinguished public trustee, Mr. Bert McComiskey, QC. Mr. McComiskey, would you like to sit at the table in the event there are questions that members of the committee might like to direct to you?

Mr. Renwick: Thank you for whatever interruption in your plans you made in order to accommodate me. We have very little time, but I did want to open with a question I want to look into.

I have had some—allegations is much too strong a term—serious concerns expressed to me about what is happening in the office of the public trustee with respect to the estates of those persons who are, in one way or another, incapacitated under the provisions of the Mental Health Act and the Homes for Special Care Act.

I am not in a position to repeat, nor do I want to repeat the kinds of concerns that have been expressed to me, but I would like to open it up and then either follow up by correspondence or be in a position to follow up when the next estimates come before us. One of the concerns expressed to me is in financial terms. The latest statement I have is the March 31, 1982 report. Is that the most recent report?

Hon. Mr. McMurtry: I believe so, yes.

Mr. McComiskey: The 1983 one is actually done and is in the process of being printed.

Mr. Renwick: Perhaps you could give us the 1983 figures. The concern expressed is the extent and degree of the surplus which you seem

to generate each year in operating the public trustee's office. Questions put to me, which I was not in a position to answer, included: "Why is it that the position of the public trustee permits an office in service to the public to operate always"—I think "always" is a fair statement—"with an excess of revenue over expenditures?" For example, in 1981 your statement shows a balance of some \$14.5 million. By the end of 1982 it was a balance of something in the neighbourhood of \$19 million. That would be my first question.

Mr. McComiskey: A number of things have been happening, Mr. Renwick. Before I became public trustee, the annual profit of the office was roughly \$500,000. Two things started to happen. First of all, the interest rate payable on funds jumped considerably. We hold a number of funds where either there is a low interest rate payable by regulation, or even where it was payable at a current rate there was still a bit of a spread between the rate we were paying and the way the interest rate was jumping at the time. That increased our profit considerably.

The second thing was that we went to data processing. That enabled us to start charging compensation, which is our main source of revenue, on a current basis. At the same time, we were able to go back and collect some of the accrued compensation which normally we would have only taken when the estate was being wound up. That will level off. Our estimate was that it would come back in a term of five years. That gives us another three years.

Because our current earnings are high, we have developed a surplus. The fact that there is a surplus gives us income on that which produces a profit. We are just in the process now of transferring \$12,450,000 out of that surplus into the consolidated revenue fund.

Mr. Renwick: That would concern me.

Mr. McComiskey: Yes, that is being done. The Honourable Norman Sterling had some questions before Management Board about this, but that has been under way.

One of the things that came out when we were proposing to transfer was whether we could actually transfer assets in specie. The proposal

was that we would transfer \$12,450,000 worth of Ontario bonds. The regulation had to be changed and it was changed in September. We are now proceeding to complete the transfer from our funds to consolidated revenue. I expect that will be reconsidered again before long and perhaps a further transfer made.

Mr. Renwick: There is a very worrisome. I do not pretend to know the ins and outs of your office nor to understand the implications of the questions I am having answered, but it is my privilege not to understand what I am asking. There is a disturbing coincidence between the itemization of fees which are collected by your office and the excess of revenue over expenditures in each of the years.

In 1981, for example, you collected a total of \$2,805,000 as fees for services, a public service to be rendered to those who are incapable of looking after themselves in the various areas of responsibility which you largely have, and a surplus of \$2,728,000 was generated. In 1982 the fees collected by your office were \$4,223,436 and the excess of revenues over expenditures was \$4,633,000.

One of the points made by the person who has been in touch with me about the concern is why should this office not operate at a break-even situation. Instead of generating a surplus to be turned over to consolidated revenue, why are the fees which have been charged to persons who are incapable not relieved at least to some extent?

Mr. McComiskey: The answer to that is that the increase has come about for three reasons. First, the sizes of the estates we are administering have increased. Our fee for compensation is based generally on the same percentages trust companies are paying. In a generalized statement it is 2.5 per cent of all income or capital coming in or out of the estates. Because the estates are larger, the fee we receive is larger.

Legal fees have also increased to some extent, again because legal fees for estate work have been based on the size of the estate. Because the estates are larger, the fees are larger. If you look at our operating procedure over a number of years, you will see that the legal fees we receive and the compensation we get as executor, administrator or comity only cover about 70 per cent of the operating costs of the office. In the last couple of years we have been getting closer to the break-even stage. I think this year we will break even, but the actual fees we are paid will not cover the actual cost of operating the office.

It is only because we have this interest income spread that we can make a profit.

3:50 p.m.

Mr. Renwick: I do not want to tarry too long on it and it may be I will have occasion to follow along on that. I wanted to raise my concerns so you would be aware of them rather than to let them go unstated.

In your organizational chart on the setup of your operation, in the area in the lower right-hand corner of the chart, which means a long way down in your organization, there is patients' estates and special trusts and corporations. I am interested in the patients' estates. These are living persons with disabilities whose affairs are in your hands. The great bulk of the fees which you have collected—I gave the totals for all of the other miscellaneous areas—are from patients' estates. This is what concerns the person who approached me about the problem. I used the total figures, but the patients' estates fees are a large part of it; \$2 million odd in 1981 and \$3 million odd in 1982 are from patients' estates.

Could you give us some breakdown of who the patients are, how many there are and under which statutory authority of your list of statutes does it fall to be administered? If the information is not immediately available, perhaps you would provide it to me, under each of the various statutes which you have listed. The estimates will be closing today. I have only itemized a few—the Mental Health Act, the related Mental Hospitals Act and Mental Incompetency Act, and the Homes for Special Care Act.

Because of the increasing jurisdiction which has taken place over time, I would like to have some sense of the number of people who are now in your charge. I would also like, as an ancillary matter, to find out what trusts you have accepted under the note Department of Veterans' Affairs and the Indian Act from the federal authorities.

Then I can state—I am not in a position to specify or document, but I will try to be more specific—that in administering the relatively small estates of people who come under your jurisdiction scattered across the province, there is a tendency in your office to turn assets which are more difficult to manage into cash. Then you can invest it and manage it in that way. For example, it could be the sale of real estate in remote parts of the province at prices which are perhaps market—and I am not suggesting any bad faith or anything such as that—but where the patient comes out of care and has received a

few dollars from your office but has lost his real estate.

Mr. McComiskey: First, as far as numbers are concerned, the greatest part of our work is administering estates of patients certified under the Mental Health Act. We are now looking after about 300 under the Mental Incompetency Act. I could not be precise on the figure on voluntary appointment under the Mental Health Act, but I would think it is about 200. At the moment I would say we are administering about 500 under powers of attorney. We are administering 18,000 as comity under the Mental Health Act. The fees from that area are higher simply because that is by far the biggest portion of the work done by the office.

What you have said about sale of assets simply is not so. When a patient goes into the hospital, one faces two conflicting principles. One is to keep the assets as nearly as possible in the form in which they were so that they can be returned to the patient in that form. The second principle is to act like a reasonable and prudent man, as a trustee must do.

If a patient owns a house, we look first at his medical report to see when he is likely, or if he is likely, to be able to return to the community. If he is likely to come back, then we try to rent the house. Unfortunately, some of the houses we get, because of the very illness of the patient, have not been looked after and there may be no money to repair them and bring them up to standard. Taxes may be owing or mortgages payable. If we do not have the money to pay those things, we do not have much choice; we have to dispose of the real property in order to save what we can.

We look at every transaction on the basis of the health of the patient, his other assets and his future needs. When we go to sell a property, we first list it with every agent in the area. In 99 per cent of the cases, we do not give it to one agent. The only time we really do that is if family members have already entered into some arrangement with an agent or if they specifically request us to do so. Normally, we list them with every agent in the area. In a way, we have an auction. However, before we accept any offer, we obtain two independent appraisals and look at offers in the light of the appraisals obtained.

It is simply not so that we dispose of assets to make our own job easier. It is often difficult to forecast what is going to happen to a patient, because once in a while the doctors say the patient is not going to be able to go back to the community, and then something happens that

allows the patient to go back; but that is a very rare occasion.

Mr. Renwick: For your next report—I know your report is finished, and I am not asking that it be reopened and redone—perhaps in a supplementary way and for future reports, could you give us some indication of the number of people under the Mental Health Act and the other statutes whose estates come into your care? Could you also give us the number that continue in your care and the number that cease to be in your care at the end of each year?

Using your figures, we can get some sense of the movement amongst the 18,000 who are under the Mental Health Act. A reasonable number of those must each year return to the normal state of—

Mr. McComiskey: Not so often. Many of the patients are elderly and they suffer from mental problems that are not going to be reversed. We have many people who are over age 70 and whose condition will not improve.

The tendency of the psychiatric hospitals these days is to take patients in, treat them and, once they have done all they can in the hospital, release them to a nursing home, a home for special care or a home for the aged. The turnover is more rapid than it was at one time when people were taken to an asylum and kept there indefinitely. We are certainly able to provide the type of figures you are asking about, than it was at one time when people were taken to an asylum and kept there indefinitely. We are certainly able to provide the type of figures you are asking about.

4 p.m.

Mr. Renwick: I would like to have that. My last question, because we must move on and I appreciate the shortness of time, is this: is the report for March 31, 1983, consistent with the 1981 and 1982 figures with respect to the surplus being generated? Is it the same progression for, say, \$6 million this year, the excess of revenue over expenditures?

Mr. McComiskey: It has been consistent for the five years I have been public trustee. It increased from approximately \$500,000 or \$600,000 up into the millions. As I say, there were a couple of reasons for that.

Mr. Renwick: Do you recall what the 1983 excess of revenue over expenditure would be?

Mr. McComiskey: Approximately \$5 million. For 1983, it is \$5,164,000.

Mr. Renwick: About another \$500,000 over last year.

Mr. McComiskey: That is right. But that is partly because the surplus is creating income.

Mr. Renwick: Would the world come to an end if you forwent your fees in the years when you were going to make an excess of revenue over expenditures in those figures?

Mr. McComiskey: As I said, there will be a levelling off on compensation. The question is, if we fall back into the pattern of legal fees and compensation paying 70 per cent of the operating costs, will the government be asked to subsidize the office? It is this interest factor that enables us to balance the books. I have no doubt there will be a suggestion to transfer some of the surplus we now have to the consolidated revenue fund. I expect that. I think we have to have some leeway in operation. We have been looking and considering the possible formula for that.

Item 2 agreed to.

Item 3 agreed to.

Vote 1403 agreed to.

On vote 1404, crown legal services program; item 1, criminal law division:

Hon. Mr. McMurtry: While we are looking at this vote, an earlier question was asked about the number of matters being dealt with by the policy development branch of the ministry. I indicated last week that Mr. Ewart, the director of that branch, would be available this week. He is with us. If it is of interest to members of the committee, Mr. Chairman, this may be an opportune time for Mr. Ewart to outline some of the very many current projects in the policy development division. Is that satisfactory?

Mr. Ewart: Mr. Chairman, I have a prepared list of the current inventory. That could be distributed. It is quite a lengthy list, with 102 items at the moment. Rather than run through it, I would be happy to entertain any questions or expand on any particular item, whatever the wish of the committee would be.

Mr. Renwick: The important thing at this juncture in the estimates was to have the list so we could be aware of what matters were in the policy development division.

Mr. Ewart: I should just say that items 24 to 42 are not as current as the others; they tend to be more or less quiet at the moment, but all the rest have work going on them.

Mr. Renwick: Which numbers?

Mr. Ewart: Twenty-four to 42. The rest are pretty well active at the moment.

Mr. Renwick: I shall certainly be in touch with you about item 102. I have been worrying about it for a long time. I will not be in touch with you until I am prepared.

Mr. Gillies: I would like to ask the Attorney General about item 2. I had a conversation with somebody associated with the engineering industry who is quite concerned about a direction we might be going in. He maintained, and I must confess not to be remotely an expert in this area, that our direction is somewhat in opposition to the direction of some other jurisdictions. It is in terms of people performing various types of technical work who are not professional engineers but, by way of other training and qualification, are quite able to do that work and in some cases are required by statute to have that work approved or stamped by a professional engineer.

The specific example that was brought to me was of a person working in this city who has a doctorate in engineering science. When she designs a piece of work — this particular person is teaching engineers part-time — she has to take it to one of her assistants, who is a professional engineer, to have it stamped. I gather that some other jurisdictions are moving away from this.

What I am picking up on the proposed legislation, for which I believe your ministry has distributed a working paper, if I am not mistaken —

Hon. Mr. McMurtry: We are going to be introducing amendments very shortly. I am not sure precisely of the time, but it will be in the fairly near future.

Mr. Breithaupt: Will these be amendments in each of the areas covered by the professional organizations?

Hon. Mr. McMurtry: Yes. The principal amendments are on the subject matter and the agreement that was entered into between the two associations, the architects' and the engineers' associations. It was an agreement that was reached only after many months of negotiations. It might not have been reached if it had not been for the very important role of the former Deputy Attorney General, Dr. Allen Leal. He, because of his role as the former chairman of the professional organizations committee, assisted the two groups to enter into an agreement when many observers felt it would be impossible to arrive at an agreement.

We are talking about the overlapping disciplines and the friction that has existed for many

years as to the responsibilities of engineers and architects with respect to certain designs. We would like to see that agreement implemented in legislation.

On the issue Mr. Gillies refers to, I am not aware of what existing provisions there might be in relation to this certification by a professional engineer. It is something we will explore if we can obtain further details. I doubt that this legislation will be dealing with that issue.

Mr. Gillies: I would be pleased to provide further information. I guess the generic concern, if you will, is expressed by certain types of scientists and technicians.

Apparently, and I am just going on information given to me verbally, some other jurisdictions are moving away to a certain extent from the entrenched prerogatives of the engineering and architectural professions. I gather there was a hope on the part of some scientists and technicians in Ontario that we would be doing the same. I gather they are not picking up, at least through initial discussions, that this will be the direction.

I wanted to express that concern to you. I know the legislation will go to committee. It is to be hoped that those concerns can be examined at that time.

4:10 p.m.

Hon. Mr. McMurtry: The comments are interesting and relevant. One of the developments over the past several years or so has been the desire of many groups of technicians and technologists to obtain, not necessarily a monopoly—that is perhaps too strong a word, but it gets close to that—but the ability to create professional recognition that only individuals who qualify, according to their legislation, should be permitted to hold themselves out as being able to practice their trade, skill or common profession in that particular area.

In some respects, which the official organizations committee report recognized, a number of groups that would like to enshrine their particular profession in legislation and perhaps become a self-governing professional body have approached the government. Landscape engineers or landscape gardeners, for example, are but one of many groups that have approached the government. We have been very reluctant to create any more self-governing professions than we have at present.

In any event, on the issues to which you have referred, if we could obtain some additional

information we certainly can look into that aspect of it.

Mr. Gillies: Coming at it from the other end, the people to whom I talked would make the very argument you are making, except that the argument they are making is that the exclusivity, if you will, is held by certain professionals now, such as the engineers and architects, and their concern is that certain aspects of their work could be made a little easier if their technical qualifications could be recognized and they could design certain types of work without the requirement of an engineer's stamp.

I appreciate that the best interests of the people would have to be served by the province scrutinizing this very carefully to make sure that unqualified people were not designing very specialized types of equipment, buildings and so on.

However, I appreciate your comments; and when the legislation comes forward it will go to a standing committee, I would presume.

Hon. Mr. McMurtry: It may very well, yes. I do not know whether there has been any discussion about that among the House leaders.

Mr. Renwick: Mr. Chairman, if my colleagues are content to do so, I would just like to express my appreciation for having this list, but I would like to move on.

Mr. Stevenson: I want to ask about transboundary pollution, number 17. Which aspect does that deal with? Was that air and water transfer, manual transfer or all of them? What exactly is involved in that?

Mr. Ewart: That is actually a uniform law conference statute dealing strictly with procedural matters, giving someone the right to sue even though he is not resident in the particular jurisdiction where the source of the pollution is. It is to overcome a fairly ancient House of Lords decision. It has been agreed to by the uniform law conference and is something that we will soon be proposing here. It is only procedure; it does not create any substantive rights.

Mr. Breithaupt: There is only one other item I want to raise if we are looking at that list. Under the professional organizations committee, while the architects and the engineers have certain concerns they were to sort out, there were also two other professions involved. The Law Society of Upper Canada was referred to in the report, although not at any length; however, the major confrontation appeared to be between the accountants in their various guises, certified

general accountants, public accountants and chartered accountants.

Is it possible to be brought up to date for about a moment as to how much progress there has been in sorting out their various qualifications and particularities of work that were at odds? As I recall, the matter of ability and opportunity to do an audit as such was at variance among the different groups.

I am wondering whether you are seeing the architects and engineers coming to some agreement which may be embodied into legislative changes in that area, and can we expect any progress in the chartered accountants' and certified general accountants' concerns?

Hon. Mr. McMurtry: We have not made a great deal of progress.

Mr. Breithaupt: And that has taken several years, I figure.

Mr. Renwick: I am prepared to go on with vote 1404. I feel there is some tidying up I would like to do on that.

The Vice-Chairman: Any problem with that?

Hon. Mr. McMurtry: No.

On item 1, criminal law division:

Mr. Renwick: I have three or four questions I want to ask on the criminal law division. My recollection in the Pink Triangle case is that there was an acquittal, an appeal, a direction for a new trial, a new trial, another acquittal and then the crown appealed. Can I be told what the state of that appeal is at the present time?

Hon. Mr. McMurtry: The crown's appeal was dismissed in county court, and that ended the matter as far as we were concerned.

Mr. Renwick: Was that a long time ago? I missed that, somehow or other.

Mr. Takach: The second week in September.

Mr. Renwick: This year?

Mr. Takach: Yes.

Mr. Renwick: I was away. No wonder; it was not in the Italian press.

At some point could I have a final summary, assuming that all the charges as a result of the bathhouse raids have now been disposed of? It seems to me it could be a one-sheet proposition. It could include the number of charges that were laid, the number of acquittals, the number of cases in which the charges were withdrawn and the number of convictions, both of those who were charged as keepers and those who were charged as found-ins.

I would like to have a final record of what the impact of that was on the courts in respect of the

ability of the crown to prove its case. I would appreciate that. You had some figures last year—

Hon. Mr. McMurtry: The crown proved its case—

Mr. Renwick: I did not mean to upset the Attorney General.

Hon. Mr. McMurtry: —as far as establishing that it was a bawdy house. However, as time went on, by reason of the procedures the police had used, there were certainly problems with respect to identifying the individual accused.

Mr. Renwick: I assume you are still adamant in not advising the committee of the amounts paid to Cecil Kirby for his upkeep or care under the agreement granting him immunity from prosecution. I raised that question last year, and I was informed that whatever moneys were paid were not included in these estimates.

Hon. Mr. McMurtry: That is correct. But I am glad you raised the issue. There have been some misrepresentations in the media about this matter of immunity from prosecution. Recently it was reported in the *Globe and Mail*—and I cannot believe that the journalist who wrote the story did not know it was a complete misrepresentation—to the effect that Mr. Kirby had sort of immunity from prosecution regardless of what he did in crimes past, present and future.

4:20 p.m.

There is sort of a mischievous attempt, as far as I am concerned, on the part of that journalist to create a cloud about a process that has been very important in relation to law enforcement. Despite Mr. Kirby's criminal background and his unsavoury character, as revealed by his own admissions, a number of court juries have accepted his evidence. A number of leading figures of organized crime have been convicted as a result of this evidence.

Mr. Kirby was granted immunity with respect to crimes that he admitted to the police. This, of course, was at a time when the police, after a lengthy investigation, had no evidence against him whatsoever. He was granted immunity for past crimes that he admitted to, as long as he did not misrepresent; a misrepresentation would have been a breach of the agreement.

As I say, what was done is similar to what is being done on many occasions by law enforcement authorities in the US in order obtain the co-operation of former members of organized crime. Again, I stress the fact that the police had absolutely no evidence upon which to lay any

charges against Mr. Kirby, apart from his own admissions, which in the circumstances would not have been admissible in court against him.

Mr. Renwick: I do not think I was labouring under any misapprehension about the nature of the grant of immunity. I was more interested in the number of dollars—

Hon. Mr. McMurtry: No, I am sure you were not enamoured of that report which has occurred within the last number of months.

Mr. Renwick: —that were being paid and the sources of the funds. That is what I would be interested in.

Hon. Mr. McMurtry: I think the sources of the funds were discussed in the earlier estimates. I thought it was indicated that the three police forces were sharing the cost—the Royal Canadian Mounted Police, Ontario Provincial Police and Metropolitan Toronto Police. I think that is on the record.

Mr. Breithaupt: I believe that is on the record, at least in that sharing arrangement, from an earlier time as I recall.

Mr. Renwick: Oh, is it? I shall pursue that at another time. Could you tell me very briefly what your impression is about what is going to happen to the Young Offenders Act and the relatively imminent date of its enforcement?

Hon. Mr. McMurtry: The original date, as far as provincial offences were concerned, was changed, as you may recall. The original date was the end of October of this year. That has been changed to—is it April 1 of next year?

Mr. Renwick: What about the act itself?

Hon. Mr. McMurtry: The act itself, it would appear that that date is going to be changed, but I do not think the federal government has made any precise commitment. Perhaps Mr. Takach or the Deputy Attorney General could elaborate.

Mr. Breithaupt: Perhaps he could tell us what is behind the change of the provincial date of limitation. Is that solely because of the difficulty of financial sorting out, which is yet to be accomplished, or are there some other reasons as to the setting back of that date?

Mr. Campbell: Provincial implementation will happen, whatever the federal thing does. All the provinces have expressed concern to the federal government about getting things ready physically and mechanically by April of 1984. It is partly financial, partly administrative, partly for all the things that need to be done.

The current federal target, as they most

recently told us, is for April of 1984 for the proclamation of the act itself. On that date—

Mr. Renwick: Is that firm now?

Mr. Campbell: That is their mostly recently expressed intention.

Mr. Renwick: But at least it's not going to be soon?

Mr. Campbell: Yes, April 1, 1984.

Mr. Renwick: No, but 1983 has gone by the board.

Mr. Campbell: Yes. On that date, it comes into effect with respect to 12-year-old to 15-year-old federal offenders. I will come in a minute to the gap that will leave with respect to people from 12 to 15 who commit provincial or municipal offences, or are alleged to commit them.

On April 1, 1985, the act will apply to 16-year-olds and 17-year-olds. The date of the act coming into force is discretionary with the federal government, because it comes into force on a date to be fixed by proclamation. That is flexible and is entirely up to them to grant or withhold or when they do it.

The April 1, 1985, date is fixed by statute. For them to change that they would have to go back to Parliament. That is the date, of course, that is very close to the coming into force of the equality provisions of the Charter of Rights.

As I understand it, the group of provincial Premiers has asked the federal government generally for some assurance that it will not be proclaimed until there are satisfactory funding arrangements. There are a great number of ongoing meetings with the federal government about funding arrangements.

There is that subsidiary question about the uniform age. Ontario had been from the outset concerned about the uniform age. There is a difference of legal views as to whether the equality provisions of the Charter of Rights would necessarily require uniform age across the country.

We have taken some great comfort from what the Supreme Court of Canada has said—I think it was in the Burnshine case—about the age provisions under the former Juvenile Delinquents Act and how they fit it together with the Bill of Rights. We are still talking to the feds about that 1985 date. Whether the provision for the uniform age of 18 across the country will be reconsidered by them, we do not know.

We understand—and I think we have this at the officials level; I do not think we have had it from the ministerial level federally—they are looking at the possibility of delaying the proc-

lamentation of some of the items that would particularly involve a great provincial cost, such as some of the record provisions, perhaps some of the separate detention provisions—I am informed, although I do not know whether they would be likely to do that, I certainly do not think Ontario has asked them; with respect to that I could stand to be corrected—and some of the mandatory legal aid provisions. There are a number of federal-provincial task forces looking at the whole thing.

The provincial issue is what to do when the act comes into force in April 1984, or as soon thereafter as it happens. Our concern is what to do about provincial offences for 12-year-olds to 15-year-olds. We circulated, I think in August, a discussion draft of which you probably have copies—

Mr. Renwick: I have seen it.

Mr. Campbell: —that set out a wide range of options. There were three basically different models. Simply to incorporate by reference the terms of the Young Offenders Act is one extreme. The other extreme is simply to have the Provincial Offences Act apply to children, which would also be pretty extreme.

There are a couple of middle grounds that involve taking a little bit from each strain and creating a process that would basically have elements of both. It would be sort of a tailor-made option with a little bit of the federal approach and a little bit of the provincial approach. It would be a tailor-made system for 12-year-olds to 15-year-olds who commit these more minor provincial infractions as opposed to things that come under the criminal law power.

We are working on draft manuals for crown attorneys, crown law officers. We have a team of crown law officers working on that. We are working on training programs for court administrators and justices of the peace. The family court judges have had their own one-week training session on it and other ministries have training programs as well.

4:30 p.m.

There has been no final decision on how to go provincially on those various options I mentioned, although we do have a discussion draft statute and I think we are still receiving some comments on it.

I do not know if that is fully responsive to your question.

Mr. Renwick: Are you involved in any of the discussions on competing claims for jurisdiction in this question, as I understand it, between the

Ministry of Community and Social Services and the Ministry of Correctional Services?

Mr. Campbell: Not directly.

Mr. Renwick: I understand you and your mentor the Attorney General are very influential in this area of the matter and I wonder whether, in the dying minutes of his estimates, the minister could tell us what the deputy meant by "not directly."

Hon. Mr. McMurtry: We are trying to impose the wisdom of Solomon and we are having a hard time finding Solomon in order to have him impart his wisdom to us.

Mr. Gillies: Could the Attorney General perhaps at least give us the score at this point in the game?

Hon. Mr. McMurtry: Zero-zero at half time.

Mr. Renwick: I am a little bit concerned, with the Minister of Community and Social Services (Mr. Drea) away, that he may be offside. For whatever it is worth, my basic instincts tell me the Ministry of Community and Social Services should win out in that jurisdictional fight, but we will probably be able to ask the Minister of Correctional Services (Mr. Leluk).

Hon. Mr. McMurtry: His estimates start tomorrow morning, don't they?

Mr. Renwick: That is right.

Could I revert just a moment to the Pink Triangle case? One of the matters that concerned counsel for the Pink Triangle case was the documents that were seized and whether they had been returned if the case is now over. He had a continuing concern that a great bulk of documents were seized at the time of the raids on the offices of Pink Triangle Press that were not relevant at all to the charges and a concern about their detention. Perhaps you could make a note and let me know whether they have all been returned to Pink Triangle Press.

Hon. Mr. McMurtry: Yes. I do not know where that stands but we will let you know, Mr. Renwick.

Mr. Chairman: Are there any further questions? I believe we are on vote 1404, item 1.

Mr. Renwick: I do not have any further questions.

Mr. Breithaupt: There is one interesting theme we might refer to from the earlier comments in the opening statements. I raised at that point, and I suppose it is as appropriate now as at any time to raise it again, the concerns about the use of oaths for and by children with respect

to their opportunities to give evidence before courts.

The Attorney General will recall a situation in London where evidence, as I recall the event, was not available since an oath was not given to a child based on the judge's view of that child's religious principles and the importance of telling the truth.

Perhaps this would be an opportune time to bring us up to date on what changes you foresee in that area, whether the matter can be handled through something along the line of instructions and more materials being made available to crown attorneys on how to deal with that, whether it is going to be discussed and considered by the judges as they meet, whether there are to be recommendations on procedure so that in a broadly variant society, the one that you refer to in your speech to the parliamentary committee on visible minorities, for example, whether the matter can be resolved that way.

How do you foresee sorting out this requirement so that evidence can be appropriately and thoroughly given within a broad base now of a variety of changing societal rules, whereby whether one goes to Sunday school or not or what the background may be will have probably less and less relationship as to providing evidence before the courts?

Hon. Mr. McMurtry: My recollection of the report of the case would appear to have indicated a misunderstanding on the part of the trial judge to the existing state of the law, a misunderstanding that was not shared broadly. For that reason, the appeal was taken.

The trial took place, according to our notes, on April 25 before His Honour Judge Winter. The accused was acquitted on charges of attempted rape and indecent assault because the trial judge refused to swear the 12-year-old child witness alleged to be the victim. The crown filed a notice of appeal to the Ontario Court of Appeal on several grounds and the appeal is expected to be heard this fall.

Among the grounds of appeal are that the learned trial judge erred in law in refusing to swear the child witness and that the learned trial judge misapprehended the legal tests pertaining to swearing of a child witness, as set out in section 16 of the Canada Evidence Act and as outlined by the Ontario Court of Appeal in *Regina versus Fletcher*.

The learned trial judge erred in law in directing his inquiry to the question of the child's religious training and not to the child's understanding of the moral obligation to tell the truth.

Further, the learned trial judge erred in law in the exercise of his discretion on the issue of the child's understanding of the moral obligation to tell the truth and that he did not bring his mind to bear on the ample evidence relative to that issue but rather confined himself to evidence relevant to the child's religious training or lack thereof.

The fourth ground is that the learned trial judge erred in law in holding the child witness could not be sworn because she did not understand the spiritual consequences of an oath.

I referred to the *Fletcher* case a moment ago. In any event, in the *Fletcher* case it was decided that a child witness need not understand the spiritual consequences of an oath and no finding need be made if the child in fact believes in God or a Supreme Being, nor is it required that the child understand that in giving the oath she is telling the Supreme Being that what she will say will be true. Just as for an adult witness, it is sufficient that the child understand that the oath involves a moral obligation to tell the truth.

I think that decision, as reported in the 1983 1 Canadian Criminal Cases, page 370, certainly clarifies the law in Ontario and is binding. That had been my understanding of the law for some years. I was rather surprised to read the comments attributed to the trial judge. I was just very surprised because I thought the law was fairly well understood in that regard.

Mr. Renwick: He was extremely cursory, to say nothing else.

Hon. Mr. McMurtry: I beg your pardon?

Mr. Renwick: He was very cursory in his remarks, the way he dealt with the matter.

Hon. Mr. McMurtry: Yes.

Mr. Renwick: It was very upsetting.

4:40 p.m.

Mr. Breithaupt: I would think the result of the appeal may well be to clarify and put into a recorded form the attitudes and the recognition, I would hope, of the Court of Appeal that accepts that as the law and the various grounds which are being put forward on behalf of the crown.

Hon. Mr. McMurtry: The Deputy Attorney General mentioned to me that one of the discussions the uniform law conference is centred on is codifying in the Criminal Code what the Court of Appeal has said.

Mr. Campbell: Yes. I think a provision to that effect has also been included in federal Bill S-33,

which is the Canada Evidence Act introduced into the Senate.

Mr. Breithaupt: Does that have any further implication in our young offenders legislation? Is there any involvement that would be of assistance to the courts in oath matters, or is that entirely a matter of the Evidence Act?

Hon. Mr. McMurtry: I do not think —

Mr. Breithaupt: I did not think it would be necessarily, but it just crossed my mind as to whether there might be any involvement under the young offenders legislation to deal with this theme as well.

Mr. Campbell: I think—and I will check it—that there is a provision in the proposed Young Offenders Act that suggests children should not be sworn. I will check that, but I recall some provision in the Young Offenders Act and some discussion of it that suggested that the evidence of a young person, when the Young Offenders Act comes into force, should ordinarily, or perhaps always, be given without the oath.

Mr. Breithaupt: That would be an interesting change of tradition in that the evidence would be given and accepted at its face value without the Supreme Being coming into the act at some point.

Mr. Campbell: Yes. I recall some controversy in legal circles about that. I will check it out and get back to you.

Mr. Breithaupt: It would be interesting just to be brought up to date on that particular point. Again, that may have some relevance as further changes might possibly need to be considered, depending upon the Court of Appeal's decision and other clear changes that are occurring within the various makeup and attitudes of people in Ontario in 1983.

Mr. Chairman: Are there any further questions?

Mr. Renwick: I overlooked one case I wanted to ask about, and I am sorry to tag into it in this way.

My recollection was that you had appealed the sentencing decision of Richard Stevens, who was convicted of the manslaughter of Joseph Muglia. Am I correct in that?

Hon. Mr. McMurtry: Yes.

Mr. Renwick: I would appreciate it if you would let me have the status of that appeal.

Mr. Campbell: I believe the crown appeal was allowed fairly recently. I can provide you with a copy of the unreported judgement of the Ontario

Court of Appeal which increased the sentence substantially.

Mr. Renwick: I would appreciate that. I have no further questions on item 1.

Mr. Haggerty: I want to deal with a matter on item 1, criminal law. I want to make reference to some letters I sent to the Ministry of the Attorney General concerning a problem of one of my constituents in the town of Fort Erie. I do not want to use the names. I will try to stay away from that, but I will supply the minister with the documents here that perhaps he can follow.

I addressed a letter to him on behalf of the constituent on June 2, 1983. It was sent to the minister and it said, "I am in receipt of a copy of a letter addressed to you dated May 18, 1983, from Mrs. So-and-So of Fort Erie. Her letter outlines the history of a motorcycle-car accident on May 16, 1982, in which her daughter and son-in-law were killed instantly. The driver of the car involved was charged with criminal negligence causing death and impaired driving.

"Mrs. So-and-So's letter explains the frustration and disappointment encountered with our judicial system. Valid concerns are raised which should not be disregarded, and some initiative should be taken by your ministry to improve the present state of paralysis existing in the provincial judicial system.

"Perhaps the most serious problem facing the criminal justice system involves the dilemma of balancing the rights of those accused of crime against the rights of victims. I know this is not a simple task. The system must continue to protect those who have been wrongfully accused, yet find a way to promptly and efficiently deal with those who are guilty.

"The judicial system must also take the initiative to render justice and protect society. The general public has the right to expect quality performance from court personnel, easy access to the courts and more efficient management of the judicial system.

"The multiple pre-trial suppression motions and pre-trial proceedings are a tremendous drain on the judicial manpower and time, as her letter indicates, causing impediment of a speedy disposition on criminal matters."

I have suggested an area in which I think the minister should be moving. I think there should be a penalty clause, a statute which would, as my letter says, "require that failure to adhere strictly to fixed timetables or failure to consolidate these proceedings would result in some measure of penalty.

"Information from the crown attorney's office

has indicated that there are insufficient numbers of judges to hear court cases, creating a backlog of court cases pending hearing date."

In your reply to the person in Fort Erie who lost the two children, you said a couple of years ago, and I quote your guidelines to counsel which were intended to expedite the trial process, "I support the federal Department of Justice's intentions of introducing legislation in the near future concerning the issue of speedy trials."

What areas have we moved in? Have we advanced in this particular area?

Hon. Mr. McMurtry: What particular area are you referring to?

Mr. Haggerty: To expedite some of the court cases that are pending, to clear up some of the backlog.

Hon. Mr. McMurtry: We continue to increase the resources of the courts, although it may not be to the extent we would like. The reasons for delays are numerous and many are unrelated to the actual court resources.

We have discussed in estimates over eight years the fact that many trials are delayed, unfortunately, because of unavailability. A common reason is unavailability of defence counsel for a particular trial or a particular trial date. Often a defence counsel, particularly a busy counsellor, will find himself engaged in another courtroom. Under our system the right of the accused to hire counsel of his or her choice has traditionally been regarded as a fundamental right in this country.

On occasion I have said that I am not sure how long we, as a society, can afford to maintain that right in its more absolute terms. I think it should be the right to have counsel of one's choice, but it should not necessarily be just one counsel. I think in years ahead we will move to a system where it is made clear that while the accused must have right to counsel of his choosing, if one counsel is not available then someone else should be available to proceed.

Trial delays in most areas of the province are not a significant problem. They are isolated. You can certainly always find individual cases which have been delayed. The problem exists in Metropolitan Toronto where there have been trial blitzes. For example, last year a number of county court judges were brought into Toronto from outside of Toronto to be in the additional courts trying these cases. I understand there are similar blitzes now going on in Windsor. During

the past year we have added an additional 25 crown attorneys.

With respect to the proposal for more expeditious trials, I have supported publicly what the Minister of Justice has said in this respect. We have not seen the details of the legislation, and that will be very important, but we support the concept of speedier trials.

4:50 p.m.

I have often said that until we have some provision under the Criminal Code, I do not think we are going to make the degree of progress we would like or that the public would expect because of the traditional problems. As I have said on many other occasions, the law's delays are a regrettable phenomenon. They have been referred to from earliest recorded history, and we are never going to eliminate them. But I think the public has every right to expect that we reduce the trial delays that do occur all too frequently.

Mr. Haggerty: The minister has a copy of a letter from the person who raised the matter with me or initiated the inquiry to my office and to his office on October 6. She goes on to say she is not too happy with the decision of the courts, that justice has not been dealt with.

Hon. Mr. McMurtry: I gather this particular case is still before the courts. The accused was convicted and was scheduled to be sentenced on November 3.

The principal concern of the person who wrote the letter remains a concern I share. The accused was convicted of criminal negligence causing death. The parent of one of the deceased expressed her outrage that the court did not immediately suspend the driver's licence. As Mr. Takach points out, the court under the existing legislation cannot deal with this sort of sentence piecemeal. It cannot suspend the licence one day and then impose the rest of the sentence six weeks later.

Mr. Haggerty: Normally, the procedure for impaired driving is that the licence is removed automatically. It is surrendered right away.

Hon. Mr. McMurtry: Normally, the sentence is imposed right away. I would imagine that the crown is seeking a custodial sentence in this case; I would certainly expect so. The trial judge has asked for some time to think about, I assume, the length of the sentence.

Mr. Takach can address some of the technical details of this. If you are stating, as I think you are, Mr. Haggerty, that if there is a conviction registered under the Criminal Code in

relation to a driving offence, such as criminal negligence causing death or danger to driving, then perhaps there should be some provision in our Highway Traffic Act for the immediate suspension of a licence, I am very sympathetic with that suggestion. Perhaps Mr. Takach could assist us as to what obstacles might or might not be in the way. I certainly share your concern.

Mr. Haggerty: I am not that familiar with the court case, but she does raise another point, namely, are we in a sense harbouring criminals out there with the long delay to get him before the courts, in spite of the very lengthy criminal record which included a no show in the court on a previous charge? Then, all of a sudden, a decision is brought down and he still has a driver's licence and can continue to operate his vehicle. Is there justice in the system?

Hon. Mr. McMurtry: I think we had better wait until we hear the sentence on November 3. We will be in a better position to assess the justice or otherwise of the result in this particular case.

Mr. Haggerty: There is a matter, if I can take a little bit of time. Do you want to speak to that?

Hon. Mr. McMurtry: I think we had better wait or send it out by letter.

Mr. Takach: We can certainly do both, I am sure.

With respect to the suspension, first, there is no power in the court at the present time specifically to prohibit the individual from driving. Any suspension operates by virtue of the Highway Traffic Act. It is not a requirement that the individual surrender his licence in order that the accused be suspended. Upon conviction, he is automatically suspended. Whether or not his licence is physically taken from him at the time, it should preclude him from driving.

The one caveat I might mention on the issue, however, is that if the accused, although convicted and not sentenced, immediately files an appeal, then it may be that he drives again. All he need do is file the appeal and there is a suspension on the suspension, if I may put it that way.

I have recently written to the Ministry of Transportation and Communications which is responsible for administering the Highway Traffic Act suggesting that an appropriate amendment to consider would be a provision which ensured that, upon conviction, when the accused files an appeal, he does not automatically have the right to drive again, indicating that an appropriate procedure would be if something

like a provision were desired, that at least the accused would have to go before the judge and apply for an interim suspension of the automatic suspension, as given by the Highway Traffic Act.

In short, the court has no power to make the order at the present time. The Attorney General wrote to his federal counterpart two years ago asking that the power of the judge to prohibit be reinstated. At a meeting in early September, we were advised that they were going to reintroduce the power of the judge to prohibit. If that were done, it would not matter what the provincial legislation said because he would be prohibited until some dispensation were obtained from the presiding judge or another judge, even if he launched an appeal.

The second aspect is that the licence need not be taken immediately. He is suspended whether or not it is physically seized. All of the provisions of the Highway Traffic Act do provide that he shall turn it over forthwith. Finally, when he does file an appeal, yes, he may be allowed to drive in the interim. That is automatic at the present time. We have suggested that be looked at and changed.

Mr. Haggerty: How do we get these drunken drivers off the road? If everyone knew he had a right to appeal and that under it his licence would not be suspended, he would continue to drive and keep appealing and appealing.

Hon. Mr. McMurtry: The right to appeal, to appeal the initial conviction, in general terms is regarded as a fundamental right in our criminal justice system. Because of the privilege involved in relation to driving, one can perhaps argue, as Mr. Takach has said, that an appeal does not necessarily suspend the operation of the consequences of a conviction in so far as being allowed to drive is concerned.

As a general principle, the filing of a notice of appeal is an important right with respect to the suspension of a penalty such as incarceration. It would be hardly just if the Court of Appeal quashed the conviction and the person had already served his sentence. The appeal might be rather meaningless.

But I agree with you. When it comes to driving, I am sure we all agree with you, given the fact that the right to operate a motor vehicle in this province should be regarded as a privilege and not as a right. Once an initial conviction is registered, I think a very persuasive, very compelling argument can be made for placing some onus on the accused, as Mr. Takach

suggests, to apply for the right to drive pending the appeal.

5 p.m.

Mr. Haggerty: I hope that somebody in this ministry and the Ministry of Transportation and Communications will be moving in this direction to plug any loophole. How do you get them off the road if there is no law that is going to suspend that licence or take it away from him? I think we should be moving in that direction as soon as possible.

The other matter of concern is the third division court, I guess it is. I have had a number of matters raised to me by constituents. For example, a person in the landscaping business had done work on a person's new home, had spent quite a bit of time on it and provided various services. He had a bill of \$2,000 or \$3,000 and could not get the owner to pay the bill.

In this case he has gone to the third division court three times and the judge or whoever was hearing the case got a commitment from the person who purchased the service, saying, "Yes, I will make payment to him." He has committed himself two or three times but still there is no payment coming to pay for the services provided by the person in the landscaping business.

I said to him, "If I were you, to get my money back, I would go in and tear up all the sod and everything else and take the trees out." He said: "I can't do that. I'd be charged with theft."

How do you apply justice when these persons can circumvent the law through loopholes? There should be something to make these persons pay for the services. I suppose he could put an attachment on the real property. Here is a guy driving around in a big car and with everything else, just laughing at the public and saying, "Try to take me to court."

Hon. Mr. McMurtry: I may have missed something in the accounting of what happened. The judgement was obtained and your constituent has not been able to collect?

Mr. Haggerty: The judge has been very lenient with the person, saying, "As long as you promise to pay him, we will let it go at that." This has been the judgement three times now.

Hon. Mr. McMurtry: This is a judgement in small claims court?

Mr. Haggerty: He struck out, I guess.

Hon. Mr. McMurtry: One would hope that the judge would have ordered regular payments. I guess one of the great problems facing any small business person is the issue of extend-

ing credit and, particularly in these economic times, getting paid for the work that is done. What alternative are you suggesting, other than tearing up of the sod and carting it away?

Mr. Haggerty: If I were in that business, that is what I would do and have my day in court. These bills and accounts should be paid. You can put in for collections and follow up.

Hon. Mr. McMurtry: You did mention the filing of the execution against the land. At least if somebody sells the place—

Mr. Haggerty: Exactly.

Hon. Mr. McMurtry: Yes. But it is not just a question of whether they sell the place; after a year—how long does the writ of execution have to be filed before they can ask for a sale of the land? I think it is a year, is it not?

The filing of an execution is a pretty effective remedy if you are dealing with a debtor who owns land. You might have to wait for a while to exercise that right of judgement, and it could be collecting interest in the meantime. That remedy is available and I am sure your constituent, if he utilizes it, will get paid.

Item 1 agreed to.

On item 2, civil law division:

Mr. Renwick: Would the Attorney General tell us what his intentions are with respect to the review of the family law reform law?

Hon. Mr. McMurtry: We have had a large number of submissions already with respect to Family Law Reform Act. Many of the submissions have concentrated on the issue of whether we should move to a deferred community of property regime, as it were, as originally recommended by the Ontario Law Reform Commission. There are a number of other recommendations as well, but I think it is fair to say that particular issue seems to be paramount in the ongoing debate.

We have still not heard from some significant organizations that have indicated a wish to file briefs, but we have heard from a number of the major groups, including the Ontario Status of Women Council and the Ontario branch of the Canadian Bar Association.

I think we will be in a position to introduce amendments. I assume that some amendments will be introduced. No decisions have been made as to where we are going to go in relation to some of the more controversial issues. I hope we will be in a position to introduce legislation in the early spring.

Mr. Renwick: In the new session?

Hon. Mr. McMurtry: Yes.

Mr. Renwick: What is the state on the question of class action legislation?

Hon. Mr. McMurtry: Again this is the subject matter of a tremendous amount of interest and debate. You have probably heard about a number of seminars scheduled for this fall. We will not be introducing any legislation before the spring, and I am not confident that we will be introducing legislation in the spring.

Mr. Breithaupt: Do you think it may be delayed even further until the details have been sorted out, or is there a requirement for additional public input, now that we have these reports?

Hon. Mr. McMurtry: We have not heard from the Advocates' Society, for example, which has expressed a great deal of interest in this issue. Its submission has not yet been received. We are not going to take the position that the delays of some of these important organizations will necessarily delay us, but there are some fairly hard issues to face.

I would like to give a commitment that legislation would be introduced in the spring, but I feel a little uncomfortable in making that commitment.

Mr. Breithaupt: You feel much stronger about the family law reform themes as far as the spring is concerned?

Hon. Mr. McMurtry: I feel more confident in that area.

Mr. Renwick: When you are dealing with the class action question, will you also be dealing with the question of standing?

Hon. Mr. McMurtry: A lot of work has been done with class actions. I was just having a word with Mr. Ewart, and there is perhaps a higher possibility of something being introduced in the spring. I think our own policy development people would be ready but, as I say, some of the issues still puzzle me. Perhaps we can be a little more optimistic, according to what Mr. Ewart has just told me.

5:10 p.m.

Mr. Renwick: While you were speaking there, I asked whether you would be dealing with the question of standing. As you know, the environmental groups are very much concerned in environmental cases about some resolution of the question of standing for public interest groups.

Hon. Mr. McMurtry: We are still awaiting a report.

Mr. Renwick: Still awaiting a report?

Hon. Mr. McMurtry: Yes.

Mr. Renwick: From the law reform commission?

Hon. Mr. McMurtry: From the law reform commission.

Mr. Breithaupt: Do you have any expectations as to when that report might be available to us?

Hon. Mr. McMurtry: I am sorry, I cannot tell you.

Item 2 agreed to.

On item 3, common legal services:

Mr. Renwick: I do not expect the Attorney General to have the information, but he may recall that there was a judgement of the Ontario Court of Appeal in the case of the Ontario Housing Corp. and Timmins which denied OHC the right to calculate rent based on workers' compensation payments received by the tenants. Mr. David Leitch of the Sudbury Community Legal Clinic in Sudbury had the carriage of that case and now has another case dealing with Mr. Wilfred and Mrs. Marie Quesnel.

We had had correspondence on the case, and my colleague the member for Sudbury (Mr. Martel) had correspondence on it. Your last word to me, in March of this year, was that the reference of your counsel in the Ministry of Municipal Affairs and Housing was that the matter should go forward to trial and, if necessary, to the appeal. Do you know where that now stands?

Hon. Mr. McMurtry: I know the Deputy Attorney General has had some conversations with Mr. Leitch, not very recently but in the past two or three months, as I recall.

Mr. Campbell: I am not sure when I last spoke to Mr. Leitch. The most recent thing, and I think it was conveyed to Mr. Leitch, was that Quesnel, the individual concerned, was a very elderly individual and, as I recall, there was to be some offer of co-operation in the sense of trying to work out an agreed statement of facts to spare Mr. Quesnel the difficulty of a court appearance. That is the last thing I recall in dealing with counsel and the crown law office.

I think it was conveyed to Mr. Leitch, although I might not have spoken to him directly, that we would certainly urge upon the people we were dealing with to do everything necessary to wrap it up in an agreed statement of facts and

expedite it as much as possible. As I recall, one of his concerns was simply the age of his client and the trauma, difficulty or upset of a person of that age going through any protracted kind of legal proceeding. I have not heard a status report since.

Mr. Renwick: I have no further information, and I meant to call Mr. Leitch and find out. I will do so and if I have any further questions, I will communicate them from there.

I believe the only other matter I want to raise is whether there is some method by which perhaps Mr. Breithaupt and myself, and the other members of the committee who are interested in it, could be kept up to date about the major cases under the charter that the ministry is dealing with. I am not saying we need to be advised about every single decision but about the ones where the ministry feels there is a substantial interest.

Is there any way in which we could be kept up to date? The cases are so voluminous that you cannot follow every one of them and what happens to it as it goes along. There are a number.

Mr. Breithaupt: Even the people writing the book have difficulty following them all.

Mr. Renwick: Particularly the ones where you decide to go the Court of Appeal of Ontario or where a decision is made to go to the Supreme Court of Canada or to join in actions in cases at the Supreme Court of Canada level from other jurisdictions. I would be interested in those ones, and perhaps my colleague would as well.

Mr. Breithaupt: Yes. Those are the areas where particular points or practices are going to be finally considered, where procedures that have been accepted or simply things that have been done over a number of years are going to be either approved or not. In any event, they probably will substantially change the practices we have been used to over the years.

If there are those opportunities to be informed, appropriately when a decision has been made, it would be of interest so that we can also deal with those not reported in the media and other sources available to us to see what progress has resulted and how matters are reported upon.

Mr. Campbell: We would be glad to work out some sort of system. The difficulty is in winnowing out which ones are the significant ones and which ones are not. You cannot always tell in advance. There are so many cases now where counsel ritualistically raise a charter issue. In

effect, it would change the role, but you are never sure which are the live ones and which are not.

We would be very glad to try to work out something to provide you with what appear to be the more significant ones.

Mr. Renwick: That is all we could ask.

Mr. Breithaupt: In a practical and short way, I do not think my friend or I want an awful lot more to read. On occasion, something that is proceeding, which may not otherwise receive the press comment and of which we would not be aware, certainly would be of interest.

Mr. Renwick: I was sort of stimulated to ask that question today because I happened to be reading a copy of New York magazine at lunchtime and I find that this week is the 30th anniversary of the appointment of Warren as Chief Justice of the United States. He, in his own way, brought about a kind of revolution in the Constitution of the United States on that court over the time that he was chief justice. It may be that we are on the verge of a period of time when a number of fundamental assumptions are going to be looked at again in relation to our process and procedures. It would be quite helpful to us to have some—I agree with my friend, I do not need too much more reading material; I do not need every case.

Item 3 agreed on.

Vote 1404 agreed to.

On vote 1405, legislative counsel services program.

Mr. Breithaupt: We usually have our two moments of love in. Either a minute's silence or—

I appreciate the operations of the legislative counsel services. Arthur Stone QC and his staff members have always been available to all of us, whatever our party label, to assist in the preparation of a great variety of materials, all in confidence. I think that operation is one which more particularly impinges upon all of us as members than many of the votes and the many millions of dollars with which we blithely deal, as we hand out funds to agencies, boards, commissions and everybody else that seems to want some.

In this instance, the legislative counsel services are those which are peculiarly our own. Once again, I am happy to congratulate and to show an appreciation for the work which is done for all of us.

5:20 p.m.

Mr. Renwick: I join my colleague on the same note. I particularly appreciate the fact that you picked up the suggestion I made in the corridor one day that the 1982 volume of the statutes contain a copy of the Constitution Act. I would appreciate it if you would let the committee know how difficult it was to find an authentic copy of the Constitution that my friend the Attorney General was engaged in settling for Canada. You did have some considerable difficulty, did you not?

Mr. Breithaupt: Did you get the one with the gravy stains on it?

Mr. Stone: Yes, it was at a fairly early stage at that time. In fairness, I should say the only thing I could ever find, or ever saw, as to what it said, were the publications put out by the federal government in connection with its interest in it. But we did eventually obtain a copy from the British legislative counsel of what went through the House there, and we were able to reproduce it by photocopying it.

Mr. Renwick: That is what appears in the 1982 Statutes of Ontario. The other item we are all interested in is that in December 1982 we received a copy of the Ontario statutes translated into French. I was wondering whether or not there have been any additions to that, and could we have an up-to-date copy if there have been some changes in it?

Mr. Stone: I foresaw that, because I have been asked that in the last couple of years. I brought with me sufficient copies to pass around.

Mr. Breithaupt: Perhaps while they are being passed around, Mr. Stone could comment generally upon what changes have been made in new statutes, besides the necessity of making the changes as amendments to the currently translated statutes. Are there new areas in which you have been able to deal with translations into French?

Mr. Stone: Yes, the program started originally with the concept of translating existing statutes simply. We found the demand has changed the emphasis to some degree. Most ministries want to have a bilingual set of forms as well. We have done a great deal. They are indicated in the list I passed out.

There is an increasing demand for bills under preparation in English to be available at the same time in French. This introduces a new note which is really French-language drafting going on at the same time as English-language drafting. We are attempting to prepare to meet those demands.

Mr. Breithaupt: How many persons are involved in the drafting and translation portion into French? Do you do this solely in your own office for all the ministries, or are there any translation facilities developing, particularly among counsel or other staff members assigned by the Ministry of the Attorney General seconded to other ministries?

Mr. Stone: No. Just as with the bills and regulations, the drafting is done entirely in our office. The French version is done entirely in our office if it is a law. A statute or a regulation is done entirely in our French statutes branch.

Mr. Breithaupt: How many translators or staff people dealing in this area are there in the legislative counsel office?

Mr. Stone: We have five at the moment. There is some shortage in our staff, but at the moment we have five.

Mr. Breithaupt: I have nothing further of Mr. Stone.

Vote 1405 agreed to.

On vote 1406, courts administration program:

Mr. Renwick: Mr. Chairman, I have two questions on that. I would like an off-the-cuff response by the Attorney General to former minister Lang's report with respect to the level of remuneration of the federally appointed judges, in relation to any possible impact it might have on the level of remuneration of those within the provincial area.

Hon. Mr. McMurtry: I have not read the report. I have read the press reports of the report, and look forward to reading Mr. Lang's report. I am not aware of what the response or reaction, if any, from the federal government has been. There is no question but that will have some impact on discussions in the provinces, between the provincial authorities and the provincial court judges.

As you know, the Attorney General in Ontario does not deal with these issues directly, but it will undoubtedly have an impact. All of us become a little more envious.

Mr. Renwick: I just do not understand. I have not met Otto Lang. It seems to be the basic impression that somehow or other the quality of the members of the legal profession eligible for appointment to the judiciary by the federal government is somehow equated with very substantial remuneration in private practice. That seems to be the consideration.

It is always said you cannot get lawyers of quality to accept the appointments because of

the loss of income. I find that single-minded attitude somewhat deficient.

Hon. Mr. McMurtry: I can speak only of experience in Ontario. I do not know too much about the experience in other provinces. When you look at federal appointments, it is quite clear that over the years the federal government has not had much difficulty in obtaining lawyers who are well qualified to serve.

I agree with you, Mr. Renwick, that Mr. Lang's attitude certainly does not reflect the experience in Ontario. I will not say anything about the experience in Saskatchewan. I know a little bit about the internal workings there. In any event, I just think to make that strong of an equation does not reflect the reality of the situation.

Mr. Renwick: The other area is whether you want to make any comment at this point on where we stand on the vexed question, or what was a vexing question for the provincial court judges, about the fringe benefits, pensions and those matters, the kind of fallout that still remains from the Valente case.

Hon. Mr. McMurtry: Yes, leave was granted to appeal the Valente case to the Supreme Court of Canada. The argument has not yet been heard.

The commission that makes recommendations to the government has been spending a lot of time looking at the issue of pensions, particularly in recent months. I do not know precisely where that stands, but I know they have been very active and I have been told there have been some tentative proposals made to the judges associations, or are about to be made. Mr. McLoughlin may have more of an up date on that.

Mr. McLoughlin: Yes, as a matter of fact, it is either going to be fairly soon or it has already been held, I am not sure. It is a meeting with certain of the judges where the committee that was formed is going to put certain proposals concerning pensions before the judiciary. As you are aware, the ministry is not directly involved with those; it is, rather, the negotiations of the committee with the representatives of the three divisions of the provincial court.

5:30 p.m.

Mr. Renwick: Who are the members of the committee now?

Mr. McLoughlin: The secretary of the Management Board, Mr. Bob Carman, Mr. Edward Greenspan representing the judicial associa-

tions, and the chairman is Alan Marchment, who is a trust company president.

Mr. Renwick: Is it proceeding in a reasonably conciliatory way, or is it still at some sense of distance?

Mr. McLoughlin: I do not think it is at a sense of distance. I think the committee is functioning well—and that is my understanding, which I get as a form of hearsay in a sense, Mr. Renwick—but I do not think there are any sort of strong tensions between the parties at this time.

Mr. Renwick: Are there any other outstanding issues affecting the provincial judges that are causing irritation or concern?

Hon. Mr. McMurtry: No, not that I am aware of. I met as recently as yesterday with the chief judge of the provincial court, criminal division, talking judicial resources. He certainly did not indicate that there were any particular problems or tensions at the moment.

Mr. Renwick: Except the pension issue.

Hon. Mr. McMurtry: The pension issue is a matter of intense interest to the judiciary, and I can understand that, but I have not had an update, as I have already mentioned, as to just where it stands with respect to some proposals that will be developed within that committee that were going to be discussed with the associations. I have not heard anything about it in recent weeks.

Mr. Breithaupt: When you look back, at least at the basic report as it appeared in the press, on the changes in judges' salaries projected by the Lang report, I presume that will have some impact, by ripple effect if nothing else, on the salaries of provincially appointed judges. If that increase, or something akin to it, does float through, it seems to underline the comments that were reported to be made by Robert McGee on his retirement as the deputy crown attorney of York. It was reported in the Toronto Star:

"McGee said in an interview yesterday the salary range of \$22,000 to \$63,000 a year for a crown counsel 'is considerably less than the average police officer, the average judge and the average defence lawyer opposing. It doesn't bode very well for good morale among crown attorneys.'"

The study that was then referred to set out the average salary for an assistant crown attorney, as found by Peat Marwick, was \$27,633 last year. Then they refer to the other salaries, on average, of persons to whom I referred earlier.

If there is a feeling among the crown attor-

ney's staff of some unfairness, or some imbalance shall I say, in their remuneration, as other changes in the system occur, what ongoing review do you have to attempt to sort that balance out?

Hon. Mr. McMurtry: There is no question that this a matter of some concern in the crown attorney system. There were certain proposals we were working on the last couple of years that did get caught up in the government's restraint program. We had hoped to address many of the concerns. We obviously were not going to be able to satisfy everybody.

This was put on the shelf to some extent during the restraint program but it is an issue that is of some real concern to me. I am worried about the morale in the crown attorney system. If these issues are not addressed I think the administration of justice will suffer as a result.

Mr. Breithaupt: Clearly, the crown attorney system being the sparkplug, we might say, that keeps the whole administrative system up to the mark, proceeding and resolving cases and attending to the great variety of interests, if there is some disquiet there, that too will reflect in the whole of the panoply of administration that flows from the activities of the crown attorneys.

It is a knotty problem, but when you look at that press report of the Lang suggestions it again brings into focus the difficulty of coming to perhaps a more appropriate balance. Where the resources come from is, of course, always a concern and never more so than in these last several years.

Hon. Mr. McMurtry: Yes. There is no question about that within the provincial government generally, given the fact that we have been involved in restraint programs of one kind and another for as long as I have been a member of the Legislature during the past eight years. I think these concerns certainly are shared by a number of people who are paid out of the consolidated revenue fund, not just judges and lawyers but a number of other very capable people within government who have not kept up and are seeing their salaries fall behind those paid in the private sector or other governments.

For example, when I see the discrepancy between federal government salaries, civil service level, and our government, this does provide—

Mr. Breithaupt: In the management and other levels.

Hon. Mr. McMurtry: Yes, in the management levels there is no question that there is just no way the discrepancies can really be justified in

so far as looking at the respective work loads and responsibilities is concerned.

The provincial civil service of Ontario has fallen behind. We are living in difficult times and everybody has been very understanding, but I think that whoever is in government in the next few years it is going to be an issue. I happen to think our civil service compares more than favourably, for example, with the federal government and the discrepancy is hard to justify.

Mr. Gillies: Mr. Chairman, I have two questions for the minister that I raise from a constituency point of view, although I feel both of them may have more general application.

On the first one, I am actually not sure now whether I should have raised this under vote 1404, but if you will indulge me, it is the question of crown attorneys' accommodation. I know you are familiar with our situation in Brantford where I do believe our crown, Mr. Borda, his deputy, secretaries and so on, I believe a total of five people are housed in really very cramped quarters. I believe the five people, files and so on are contained in somewhat less than 500 square feet. It may be quite a bit less than that.

I just wondered where we stood in terms of our ability, within spending constraints, to upgrade crown attorneys' accommodations?

5:40 p.m.

Hon. Mr. McMurtry: I know this has been an issue. Perhaps Mr. McLoughlin can answer that.

Mr. Gillies: Mr. McLoughlin has been very helpful over a couple of years. I just wondered where we stood.

Mr. McLoughlin: At present we are trying to negotiate the second floor of the registry office.

Mr. Gillies: Again?

Mr. McLoughlin: No, still. If we can obtain that space, then we can get suitable accommodation for the crown attorney.

Mr. Gillies: Very good. That would be most satisfactory.

The other question is the not very sexy issue of court security to which I know you have turned your attention before. The issue is simply this. Certain municipalities have been successful at coming to arrangements with your ministry whereby the province picks up the lion's share of the cost of court security. The regions of Hamilton-Wentworth and London come to mind. I may be wrong on one of those.

In the county of Brant, our court security is provided by the city of Brantford municipal police department at full expense to the municipal taxpayer. I know dollars are tight, but keep

in mind that the county as a whole uses that facility, so the city of Brantford taxpayers are paying for court security for other residents of the county. I know money is tight and we may not be able to foot the bill across the province for all court security. I just ask you to continue your efforts to come up with a more equitable arrangement than that which we have.

Mr. Breithaupt: Does the county government not contribute to the total on behalf of the other residents?

Mr. Gillies: They do contribute to a number of programs, Mr. Breithaupt, but I believe on this particular point an arrangement has not been worked out.

Hon. Mr. McMurtry: I do not know to what extent we pay the lion's share. I know Metropolitan Toronto was able to work out something with respect to a contribution on the basis that it has persuaded the Premier (Mr. Davis) and others that special problems do exist in Metropolitan Toronto in relation to security. There is no question in my mind that the local government will always have a responsibility to some extent to provide security in the form of police officers. It is just a question of working out what the government of Ontario should contribute.

As you know, I do not accept the thesis that the local police departments do not have some role to play. They clearly have a responsibility to protect the public in an important local institution that serves the community in a very significant way, namely, the courthouses of this province.

I know this has been an issue for some years. During the years I was Solicitor General I used to hear about it at least every week from some municipality faced, as municipalities are, with very significantly increasing police costs and police resources that are allocated towards courthouse security. It is expensive, and I understand the point of view. I keep referring them to the Treasurer (Mr. Grossman).

Mr. Gillies: I accept that there is a local role to be played.

I see we are out of time but I have one final question. I saw some very encouraging reports in the Brantford Expositor in the last week that some new court procedures are being worked out that will, it is hoped, lessen the waiting period for trials in Brant county. I commend you on that and I hope we will be able to get those waiting periods down.

Can we duplicate that experience elsewhere

in the province? Are waiting periods going down or are they going up?

Hon. Mr. McMurtry: In some areas they are going down. In recent years we have been able to cut the delays in the criminal cases fairly significantly in Metropolitan Toronto at the provincial court level. We still have problems at other levels of the court and, as I said earlier, the delays continue to be a problem that will bedevil anybody involved in the administration of justice.

Mr. Renwick: There is one question I would like to ask. Do you know, sir, whether the Ontario Judicial Council has accepted the concerns that were expressed by a number of people about Judge Clare Lewis in relation to bail matters?

Hon. Mr. McMurtry: I do not know.

Mr. Renwick: I never heard whether or not the judicial council simply said this is not on the agenda.

Hon. Mr. McMurtry: I do not know. Quite frankly, I do not have much recollection of the issue other than what I read in the local newspapers. I did not know it was before the judicial council.

Mr. Renwick: My question was whether it is before it. I do know a number of people wrote to the judicial council asking them to take consideration of Judge Clare Lewis's reputed action in a number of bail matters.

Mr. Campbell: There was a letter from the Collins Bay chapter of the John Howard Society which was addressed to the Attorney General for Ontario. It was received on September 26. I gather there was some concern as to whether or not they had sent us a copy. They sent another one to the judicial council. At any rate, we looked at it.

Our officials sent a letter over to the secretary of the judicial council for Ontario on October 13 and attached a copy of the letter from the John Howard Society asking whether it was a copy or the original. That has been sent to the judicial council.

There were some reports in the press that some members of the bar might have intended to refer the matter to the judicial council. I am unaware that they have, but the John Howard Society Collins Bay chapter letter is in there. There was a letter written to the Attorney General in August or September. We were trying to straighten out the question as to whether or not anything was before the judicial council. That letter has gone over within the last

week or so and there will be a reply as to whether—

Mr. Renwick: Whether it is or is not on the agenda of the council.

Mr. Campbell: Yes.

Mr. Chairman: Excuse me, gentlemen. The time for estimates has just about expired. Could we carry on the conversation a little later on?

Mr. Renwick: As long as that is all on the record, I do not mind.

Vote 1406 agreed to.

Vote 1407 agreed to.

Mr. Chairman: This completes consideration of the estimates of the Ministry of the Attorney General.

Hon. Mr. McMurtry: Before concluding, Mr. Chairman, I would like to make note of the other distinguished people who are here. The chairman of the Ontario Municipal Board has been with us for a while this afternoon. We have Mr. Henry Stewart here. Although we did not

direct any questions to him specifically, I would like to suggest some degree of satisfaction and confidence by the members of the Legislature in the workings of his board.

I would also like to recognize the presence of Mr. James Erskine, the very distinguished former commissioner of the Ontario Provincial Police, who has undertaken very important responsibilities with respect to alcohol abuse on the highway.

To my colleagues, my Justice critics in particular, I would like to say thank you very much for making this a very interesting discussion in relation to estimates. Once again, we will certainly benefit from the many views and opinions that have been expressed during these hours. I would like to thank you all very much.

Mr. Chairman: Thank you for your kind words.

The committee adjourned at 5:51 p.m.

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Haggerty, R. (Erie L)

Kolyn, A.; Chairman (Lakeshore PC)

McMurtry, Hon. R. R., Attorney General (Eglinton PC)

Mitchell, R. C.; Vice-chairman (Carleton PC)

Renwick, J. A. (Riverdale NDP)

Stevenson, K. R. (Durham-York PC)

From the Ministry of the Attorney General:

Campbell, A., Deputy Attorney General

Ewart, J. D., Director, Policy Development Division

McComiskey, A. J., Public Trustee

McLoughlin, B. W., Assistant Deputy Attorney General and Director,
Courts Administration

Stone, A. N., Senior Legislative Counsel

Takach, J. D., Assistant Deputy Attorney General - Criminal Law



Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice
Estimates, Ministry of Correctional Services

Third Session, 32nd Parliament
Friday, October 21, 1983

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, October 21, 1983

The committee met at 11:33 a.m. in room 151.

ESTIMATES, MINISTRY OF CORRECTIONAL SERVICES

Mr. Chairman: Ladies and gentlemen, I see a quorum. We are here to consider the Ministry of Correctional Services estimates. Does the minister have an opening statement?

Hon. Mr. Leluk: Yes, I do, Mr. Chairman.

Mr. Chairman: Would the clerk distribute copies of the minister's statement to the members?

Hon. Mr. Leluk: Mr. Chairman and honourable members of the committee, I would like to make an opening statement concerning the management of the Ministry of Correctional Services before we proceed with the debate on the votes in our estimates. At the outset, however, I would like to introduce the executive staff of the ministry who are with me during this presentation.

Let me begin with Dr. George Podrebarac, seated to my left, who became deputy minister at the start of the 1983 calendar year. Dr. Podrebarac came to us from the Ministry of Education where he had served in various capacities since 1969 and most recently as assistant deputy minister, education programs, since May 1979. As many of you will be aware, Dr. Podrebarac assumed the position formerly held by Mr. Archie Campbell, QC, who was appointed Deputy Attorney General.

Also in attendance today is Mr. Michael J. Algar, executive director, planning and support services division. Not in attendance today are Mr. Donald Evans, executive director of the community programs division, and Mr. John Duggan, executive director of the institutions division, who will be with us next Wednesday when we resume sitting.

We have followed our usual practice of distributing the ministry's briefing material for the 1982-83 estimates, the red book, to members of this committee in advance of coming here today. This material provides an overview of activities during the past fiscal year and outlines ongoing programs and proposed new initiatives for the current fiscal year. In these estimates we are asking you to vote a total of \$218,564,900.

I do not wish to duplicate material that is already before you in the briefing book. It is, therefore, my intention to touch on some of the highlights of the past year and to tell you some of the plans and projects we will activate during the coming months.

Turning to a review of the last fiscal year and looking at our current statistics, there is bound to be a sense of déjà vu for all of us. Simply put, many of our major problems and concerns in the correctional field are unchanged from the last time we appeared before this committee. For example, the high number of offenders being housed and/or supervised continues to occupy the spotlight for managers and line staff in both our institutions and our probation and parole offices.

The 1982-83 fiscal year was marked, once again, by increases in the counts in our facilities. During that period the average count was 6,524, which represents an eight per cent increase over the previous year. The peak count in the province, which occurred on March 7, was 7,566. The growth was not consistent throughout the system. Our statistics show that admissions in 1982-83 increased over 1981-82 by about 8.4 per cent in the entire province. In Toronto the admissions increased by about 15 per cent during the same period.

It is interesting to note that since 1971 the adult population in Ontario has increased by 12 per cent. In the same period the populations in our correctional institutions have increased by 30 per cent.

The ministry's response to the need for additional accommodation space has been to develop both long-term and short-term accommodation plans. The objective of these plans is to develop ways of responding to the accommodation and program needs of the institutions to the end of the century, while implementing alterations, renovations or additions to institutions wherever appropriate.

The short-term plan identifies capital projects that can be undertaken quickly to provide additional accommodation, bearing in mind factors such as security, efficiency, effectiveness and value for dollar. The projects proposed in the plan focus on the need for more higher

security bed spaces and more long-stay accommodation. The plan concentrates the new accommodation in the Golden Horseshoe area to effect the greatest impact on the overcrowding problem. In addition, many projects have a programming or support service component. In order to increase institutional capacity, upgrading of support services and program capabilities is usually required as well.

The increase in inmate counts is general throughout North America and in many parts of the world. Figures for 1982-83 are not yet available from other jurisdictions in Canada, but we know that between 1978-79 and 1981-82 inmate counts in provincial institutions throughout Canada increased by 12.5 per cent. The counts in Quebec increased by 24 per cent. In Ontario the comparable increase was only 7.6 per cent. There has been an even more pronounced growth in the United States where an increase of 20 per cent between 1978 and 1981 has been reported for counts in federal and state penitentiaries.

During the 1982-83 fiscal year the peak inmate population in our institutions exceeded the operational capacity by over 500 beds. On the basis of past growth trends it is estimated that about 900 additional beds will be required in the 1983-84 fiscal year and at least 2,500 by 1986-87. Therefore, the ministry is making every effort to respond to the existing and anticipated inmate overcrowding problems in its institutions.

Before outlining the action the ministry has taken to provide more bed spaces in our institutions, I would like to say a few words about the staff and their response to high inmate counts. There is no doubt that when inmate counts exceed the normal operating capabilities of institutions, this situation places added demands on staff. I am delighted to report that staff have met the challenges admirably.

Both the managers and the line staff have maintained their poise and professionalism under some trying conditions. They have met their responsibilities efficiently and effectively, ensuring the security of institutions and the safety to the public. I commend them on their continually high standards of performance and the excellence of their teamwork.

In the past fiscal year a number of steps were taken to provide additional bed spaces for inmates at institutions in the Golden Horseshoe area. Security was upgraded at Mimico Correctional Centre from minimum to medium, allowing us to add 150 beds. The work at Mimico included the installation of an 18-foot-high

fence and exterior floodlighting. At Hamilton-Wentworth Detention Centre the fifth floor was opened to provide an additional 60 beds. As well, a dormitory with beds for 40 inmates was opened at Guelph Correctional Centre. These three expansions added 250 bed spaces to relieve pressure on our institutions.

Members will also be interested to know that under the 1982-83 winter works job creation program the ministry completed 80 projects with a total value of \$1.3 million. The work included repairs, renovations and alterations aimed at improving the quality of life for staff and inmates. Also under this program, security was upgraded at the Sudbury, Lindsay, l'Orignal, Perth and Whitby jails. A total of 58 additional beds were provided at Windsor and Barrie jails and Metropolitan Toronto West Detention Centre.

In addition to the winter works activity, 10 beds were added at Burtch Correctional Centre in Brantford and 10 have been provided in the new prefabricated unit which was recently installed at the Peterborough jail. Added to the accommodation at the Ontario Correctional Institute in Brampton have been 22 beds.

In December 1982 the operational capacity at Millbrook Correctional Centre was increased from 224 to 260 with the opening of a newly constructed detention unit. This unit provided accommodation for inmates requiring segregation and close confinement. At Metropolitan Toronto West Detention Centre modifications have taken place to the institution kitchen and gymnasium and a further expansion of the kitchen facilities is planned. A new kitchen and dining room for Mimico Correctional Centre will be submitted as a priority item for construction in 1984-85.

I am very pleased that the government's 1983 capital acceleration program announced in the budget allocates \$16.5 million, which will be used to provide much-needed beds and program and support facilities in the system over the next three years.

Ministry officials have examined our needs to determine which projects could be brought on stream quickly to provide additional beds across the province while providing jobs in keeping with the budget's job-creation initiatives. Our review identified 10 projects which will produce approximately 535 additional beds as well as needed support and program facilities. We have an overview behind you there which indicates the facilities and the new beds to come on stream.

The largest of these projects will be the construction of a new \$6.5-million unit for female offenders adjacent to Metropolitan Toronto West Detention Centre in Etobicoke. This new unit will provide 200 beds as well as improved facilities for women being held in custody in Metro on remand or serving relatively short sentences.

The opening of this unit will clear the way for conversion of the present women's unit at the centre into an additional facility for male inmates. The conversion will provide space for 100 male inmates which will help to relieve overcrowding in the Metro Toronto area institutions.

Two other projects will provide additional beds in the longer-term correctional facilities. This will help to ease the overcrowding situation by reducing the number of inmates in jails and detention centres awaiting transfer to longer-term institutions which have been operating at full capacity.

A \$2.7-million project at Rideau Correctional Centre, Burritts Rapids, will involve the conversion of part of the facility from minimum to medium security. The project will provide 80 new beds. Alterations will also be made to the support services area and additional program space will be provided.

At Maplehurst Correctional Centre in Milton, \$375,000 will be used to convert unused space to dormitory accommodation. This project will provide a total of 80 beds.

A \$1.8-million expansion of the Sudbury jail will provide 40 additional beds and increased program space to meet the needs of a constantly increasing population.

An \$800,000 project at the Brantford jail will increase accommodation by 30 beds in an institution which consistently operates at levels above capacity.

Mr. Gillies: Hear, hear. I am only in on weekends.

Hon. Mr. Leluk: Only on weekends. A \$750,000 project at the Kenora jail will provide 30 additional beds to alleviate overcrowding at that institution.

Mr. Renwick: I thought he was serving an alternative sentence here each week.

Mr. Chairman: It is probably his home residence.

Hon. Mr. Leluk: Projects with a total value of close to \$1 million will be undertaken at three eastern Ontario jails. A total of 35 beds will be added by the installation of 10-bed units in unused exercise yards at the jails in Brockville

and Cornwall and a 15-bed unit at Pembroke. The value of the projects at Brockville and Pembroke will be \$300,000 each, and the project at Cornwall will cost \$350,000.

As you know, the Board of Industrial Leadership and Development, or BILD as it is known, is co-ordinating the acceleration of these projects which are targeted for regions of the province with high levels of unemployment. This ministry's 10 projects are expected to create 16,475 man-weeks of employment.

11:50 a.m.

I want to point out that a number of projects that we will be proceeding with under the capital acceleration program will utilize the ministry's prefabricated steel units in configurations adapted to the space available on the site at each institution. I had the pleasure of officially opening the first prefabricated unit using components manufactured by the ministry's industrial programs at Guelph and Millbrook correctional centres, at the Peterborough Jail on September 16.

Mr. Spensieri: You take a fine picture, by the way.

Hon. Mr. Leluk: It is a very fine-looking unit. At this point, I would like to suggest that if any member of this committee would like to visit Peterborough Jail and have a firsthand look, we would be very pleased to make arrangements. I think Mr. Renwick indicated an interest in that during our estimates last year.

Mr. Renwick: I was particularly interested in the increase in escapees from the institutions after they have been manufactured by the people they are supposed to contain.

Hon. Mr. Leluk: I assure you, they are foolproof.

This unit is of all-steel construction—

Mr. Renwick: And the escape plan that goes with it.

Hon. Mr. Leluk: We do not provide the blueprints.

This unit is of all-steel construction and measures approximately 12 metres by 10 metres. The components are readily adaptable to different sites and needs. The unit at Peterborough has the basic five cells, containing 10 beds, with a day room and a staff observation area.

Mr. Chairman: Excuse me. Would somebody translate 12 metres by 10 metres to me in the old way? Does anybody have an approximate idea how many feet by how many feet that would be?

Mr. Renwick: It would be 12 by 39 feet.

Mr. Chairman: Thank you very much.

Hon. Mr. Leluk: The prefab unit concept is envisioned to be an effective strategy to meet the ministry's bed-space and program needs quickly, while utilizing its manpower resources in a most cost-effective manner. The additional space provided by the prefab steel units, or some combination of them, will be used for either inmate living quarters or badly needed program or support service space.

During the past year, the ministry has continued existing programs and has undertaken a number of initiatives, some of which I would like to mention briefly to give members an idea of the broad spectrum of activities within the institutions division.

At the Rideau Correctional Centre, Burritts Rapids, a new hay barn was constructed from wood cut by inmates as part of the institution's program in which inmates also cut wood for fence posts, renovated a barn and built a corn storage tank and two feed tanks.

The Vanier Centre for Women and the Elgin-Middlesex Detention Centre have continued their cottage industry programs. At the Vanier Centre for Women, inmates perform work for the Rubbermaid company in the packaging of bathroom decals and for Chipco in the assembly of eye makeup mirrors. At the Elgin-Middlesex Detention Centre, inmates are employed in the assembly of telephone parts. These industries have generated more than \$30,000 in revenue for the provincial treasury, and the inmates' earnings have helped to support their families.

At the Guelph Correctional Centre, in conjunction with the Ontario Trout Producers Co-operative, a trout processing and bulk packaging operation has been started. Under the arrangements with the co-operative, fresh trout are eviscerated, washed, bulk-packaged and stored in refrigerated areas by inmates who are paid the current wages for such work. The co-operative provides supervision and the necessary tools and protective clothing.

The Guelph site was selected partly because of the presence on the property of two spring-fed lakes from which fresh water can be drawn for the holding tanks and the existence of effluent pretreatment facilities.

This partnership between the ministry and private enterprise benefits Ontario trout farmers, inmates and the taxpayers. The trout farmers feel that the plant has helped them, as small businessmen, to compete more effectively with American producers.

Inmates who work in the plant contribute

from their wages towards their room and board, pay taxes, help support their families and save money to assist them in re-establishing themselves in the community after completion of their sentences. The taxpayer benefits because the co-op pays rental for a government-owned building which previously was not being fully utilized.

At the Thunder Bay Correctional Centre, a new barn was constructed entirely with inmate labour under the direction of the school's trade instructors and vocational teachers. Monteith Correctional Centre provided lumber for the project. Beef herds at Monteith and Thunder Bay were obtained with no initial outlay, on a payback system, from the New Liskeard Agricultural College.

Monteith Correctional Centre continued to produce lumber from its new portable sawmill for its own needs. Using poplar lumber, 2,000 vegetable crates were constructed for farm production in the ministry. Other similar projects are contemplated. Four hundred cords of firewood were cut for heating in the greenhouse and the piggery and to assist senior citizens. In excess of 40,000 board feet of lumber have been cut for institution use.

Despite the wet weather, which resulted in late planting in many parts of the province, and despite the necessary expenditure for new buildings and equipment, a cost avoidance was experienced again under the food self-sufficiency program. Most institutions are involved in this program, which last year saw the harvesting of a wide variety of vegetables and root crops, including approximately 1.4 million pounds of potatoes, with an estimated wholesale value of \$160,000.

The hydroponic greenhouse at Maplehurst was a very successful venture, yielding 16,000 pounds of first-quality tomatoes in its startup year of operation. Some of the vegetables at Burtch Correctional Centre were processed in the cannery and distributed to other institutions. For example, 84,000 pounds of beets were grown and canned at the centre. The farm program also resulted in a large amount of egg production, and it helped to meet the needs of institutions for beef, pork and poultry products.

The ministry remains in the forefront of efforts by the government to keep the amount of energy consumed as low as possible in various institutions and offices throughout the province. I was very pleased to participate in award ceremonies sponsored by the Ministry of Energy at which the achievements in energy conserva-

tion of various institutions and staff were recognized.

As you may be aware, for some time solar energy has been used to heat water at the Ontario Correctional Institute and a large solar water-heating system commenced operation at the Guelph Correctional Centre in mid-1982.

I am certain that the honourable members will also be interested in the initiative in our inmate education program which utilizes computer-assisted instruction. This program, known as Plato, was started this summer with inmate students, many of whom have a low literacy level. It is serving inmate students of Millbrook Correctional Centre, the Ontario Correctional Institute and the Vanier Centre for Women.

Programs are delivered by a microcomputer, complemented by learning material such as filmstrips, videotapes and printed materials. This approach provides highly individualized instruction in a wide range of basic adult-education subjects. These include reading and mathematics from the grade 3 to grade 12 levels as well as writing skills and science at the secondary school level. Related life skills courseware is available as described by title: How to Select and Get a Job; Overcoming Self-Defeating Behaviour; Understanding Others; Communication Skills and Employability Attitudes.

Plato was chosen for this first initiative since it has been tested in correctional settings in other jurisdictions, and the outcomes have been promising. Within our settings, this computer-assisted approach will complement our present educational program services. At the same time, it will provide a basis for comparison of the efficiency and effectiveness of this modern instructional approach with our existing, more traditional methods. If this program lives up to our expectations, it will be placed in the educational programs at other institutions.

12 noon

One of the most successful programs in the ministry's continuum of service is the temporary absence program, which meets the needs of both institutional and community programs. The temporary absence program attained a 97 per cent rate of successful completions during 1982-83. Inmates earned close to \$1 million. They paid income tax, contributed towards the cost of their room and board, and a portion of their earnings—approximately \$150,000—went to support their families, possibly defraying an equivalent increase in welfare expenditures.

Many of the inmates completed their sentences in one of the 32 community resource centres funded by the ministry. These facilities provide accommodation for approximately 500 offenders on any given day.

The success of the community resource centres has encouraged the ministry to expand the program and, depending on the availability of funds, our target is to increase the number of residences by 10 over the next five years. This will assist in alleviating some of the population pressures on our institutions.

In November 1978, the ministry's community programs division was established, dividing the functions and tasks of the ministry's institutional and community-based programs. The new division was responsible for emphasizing existing community correctional programs, such as probation and parole, community resource centres, native programs and volunteer programs, and for initiating the development of other community-based sentencing options.

With the creation of the division, the number of probation and parole areas increased to 36 and since that time to 42. This reflected the ministry's desire to be responsive to local needs. The number of community resource centres has also increased by 10 in the past five years and now stands at 32.

The total number of persons under probation has grown rapidly in recent years. There are currently approximately 37,000 persons on probation. This represents 19 per cent more than there were only three years ago. Our use of parole has increased by more than 13 per cent in the past year alone. Currently, there are 1,500 persons under parole supervision. As part of our probation service, we offer many services to help probationers and parolees to modify their attitudes, upgrade their education and/or their work skills and to accept medical attention or special treatment, if necessary.

Our successful community service order program is an excellent example of a very positive community program, started as a pilot project in 1976. It has been a formal ministry program since 1978. In the 1982-83 fiscal year, 11,381 persons performed almost 440,000 hours of community service as ordered by the courts in a total of 88 programs across the province.

It is clear to this ministry that the courts are ordering increasing numbers of probationers to make restitution to the victims of crime. In 1982-83, 10,838 persons made restitution payments of more than \$2 million. We are continuing to develop specialized services, such as

victim-offender reconciliation, which are now offered in 21 centres.

In keeping with this clearly established commitment to the development and expansion of sentencing alternatives, the ministry has initiated the provision of a fine option program on a pilot project basis in the Hamilton and Niagara areas. This program allows persons who are unable to pay fines to perform community service work of equivalent value rather than serve time in jail for nonpayment.

The two pilot projects, which began on April 1, 1983, are administered in the Niagara region by the John Howard Society of St. Catharines and in Hamilton by the Elizabeth Fry Society. These agencies are under contract to the ministry to provide this program.

The fine option is available in the pilot project areas to adults assessed a fine under the Provincial Offences Act when the fine has gone into default and the defaulter has not been arrested for nonpayment. Other reasonable means of collecting the fine must have been tried and failed and work must be available before the fine option can be undertaken.

The program is intended to provide an alternative to individuals who cannot pay because of economic circumstances, although there are no means test limitations to the program. Entry into the program is by voluntary application to the appropriate agency. The administering agency is responsible for seeking out work placements in the community, matching individuals to placements and supervising the completion of the work.

The number of hours of work assigned to the defaulter is determined by dividing the total fine by the provincial minimum hourly wage. Strict time limits are set by regulation for the completion of the work. For example, 25 hours of work must be completed within 30 days, while more than 250 hours of work must be done within one year.

A preliminary report on the two fine-option projects in the Niagara region indicates that during their first five months of operation, 137 offenders completed 1,900 hours of community work as an alternative to the payment of fines.

This program is in keeping with the government's commitment to seek meaningful alternatives to incarceration that are beneficial to the community, the taxpayers and the offenders. The program may be extended to other areas of the province after the pilot projects have been evaluated for their effectiveness in reducing the number of fine defaulters admitted to jails and

detention centres and providing meaningful service to the community.

The abuse of alcohol or drugs by offenders continues to be a major concern of this ministry. In March 1983, more than 1,200 individuals on probation, parole or in community resource centres were involved in a substance-abuse program. Some of these programs are directed specifically towards the persons convicted of driving while impaired who are ordered as part of the sentence to attend a series of sessions aimed at providing a better understanding of alcohol abuse and the serious implications of driving while impaired.

For offenders who have committed alcohol- or drug-related offences, or who have a substance-abuse problem, there are also a variety of educational or counselling programs to participate in either as a condition of probation or by voluntary agreement. At the present time, the community programs division has almost 40 driving-while-impaired or substance-abuse programs. Many of them operate under fee-for-service arrangements with community agencies.

I am pleased to advise members that my ministry has recently established a residential treatment and educational program for selected drinking and driving offenders at Madeira House, one of our community resource centres, which is located in the Lakeshore area of Etobicoke. The program started on April 18, 1983.

When I first proposed this idea, it was gratifying to receive public support. In Ontario, the Citizens Against Impaired Drivers, through their vice-president, stated that it was an interesting concept and certainly worth a try.

Our goal is to help those taking part in the program to realize the very great dangers their behaviour presents to their fellow citizens as well as to themselves, their families and friends. We want them to face up to this reality and change their unacceptable behaviour of driving while impaired.

The program will be monitored. As additional information becomes known, we shall continue to review possible alternatives and initiatives to try to remain as effective as possible in this most difficult but worthwhile endeavour.

Ministry staff are continuing to co-operate with various native organizations to improve services to native offenders. This is especially true in the Kenora area, where staff have been working with local native groups and the Ontario Native Council on Justice to plan and implement innovative programs. It is hoped that

services can be initiated or improved that will help reduce the disproportionate incarceration rates and high recidivism rates of native offenders in the Kenora region.

The ministry also continues the policy of encouraging and facilitating, where possible, services provided to natives by native people. Currently there are five native inmate liaison workers and 18 native probation aides under contract to the ministry to assist native offenders on some of the more remote reserves.

12:10 p.m.

We have also worked closely with the Ontario Native Council on Justice to develop a native awareness training program for probation officers in order to increase the sensitivity and effectiveness of staff with native offenders.

I am pleased to advise honourable members that Mr. H. Ross Charles, a native Canadian, has been appointed as a member of the Minister's Advisory Council for the Treatment of the Offender. Mr. Charles, who is of Ojibway Indian ancestry, has wide business experience and a demonstrated ability to relate to all levels of the Canadian native community and to government.

The staff of the community programs division have shown the ability to face the challenge of new demands placed on them and to adapt to an ever-changing environment. They have had to confront an increasing work load with little change in staff complement or in resources, and have been asked to become more effective and accountable.

The staff have responded well to this task. Traditional strategies for assigning and managing case loads were changed and different interventions enforced. Time and effort were invested in promoting and developing the needed resources in the community.

While managing the conflict inherent in their role, our dedicated staff, in their usual professional way, have remained helpful and supportive of their clients. They have been responsive to the need to improve their skills and learn new ones such as community mobilization and public education. They have welcomed the opportunity to participate in the decision-making process of the ministry and to improve the quality of life of the offender population and the community as a whole.

These ministry staff, like those in our institutions, illustrate that the greatest strength of an organization lies in the commitment, dedication and participation of its employees. By their willingness to remain open and flexible and to deal with their heavy work load responsibility,

they have made the task of managing the ministry much easier.

It is also important to recognize that the programs in our institutions and in the community are greatly enriched by the involvement of thousands of dedicated citizen volunteers. I cannot say enough in praise of these marvellous people who bring their energy, enthusiasm, concern and knowledge to bear on the challenge of assisting offenders to straighten out their lives. The number of regular institutional volunteers remains at about 2,500 individuals and there has been continued emphasis on the development of improved management techniques by those who co-ordinate volunteer programs.

Institution managers continue to seek services from the community and its agencies to help meet individual inmate needs and to enrich programs provided by our professional staff within the institutions. An increasing number of social work and correctional services students from community colleges and universities are providing invaluable counselling and planning services to inmates, even in the small-jail setting.

Thirteen institutions now have volunteer co-ordinators, while four other large institutions have designated a professional services staff member to co-ordinate volunteer programs.

The ministry continues to encourage and support programs directed towards individual inmates, which may assist them to develop significant support systems outside the institution and which hopefully will encourage them to avoid further criminal activity.

The M2/W2, better known as the Man to Man and Woman to Woman Ontario organization, co-ordinated the work of 98 volunteers in service to inmates who need friendship, both during and after the inmate leaves our custody.

One senior volunteer who taught blueprint reading for several years in the Metropolitan Toronto West Detention Centre obtained approval to set up and conduct a drafting class in the institution's arts and crafts room two days a week. A grant to purchase necessary supplies and equipment was provided to him through the volunteer activity program of the Canadian Imperial Bank of Commerce, his former employer.

It was my great pleasure during the last fiscal year to approve 77 community service awards for presentation to individuals in recognition of their outstanding service to institutional programs. I presented many of these awards personally and had the opportunity to meet the

recipients and other volunteers at recognition nights across the province.

The ministry also encourages the wide-scale use of volunteers in many community-based correctional programs. Volunteers are supervised by probation and parole staff, who train them in counselling and aspects of the criminal justice system in order to prepare them for their role. Approximately 2,700 volunteers are involved annually in our community based programs.

Corrections in the community is a multi-faceted program including community resource centres, probation and parole. Volunteers work with community programs staff to extend the scope of service and to provide flexibility in programming. They are active in probation and parole case work, assisting probation officers in approximately 14 per cent of the active probation case load each month, or almost 5,800 cases a year. They also offer assistance in clerical work, public education and court work and, in addition, many enterprising volunteers develop and operate programs benefiting correctional clients in the community.

Looking ahead, my ministry is organizing a major volunteer conference to be known as Impact '84 which will be held at York University from June 17 to 21 next year. The federal government, through the Solicitor General, and the Ontario Ministry of Community and Social Services are also participating in this venture. The Ministry of Correctional Services has committed \$60,000 towards the administration costs and is the major funding source.

This conference is the third in a series of volunteer conferences sponsored by the ministry. The first was in 1976 and the second in 1980. Participation in the conference will be international and limited to approximately 600 participants.

The important role volunteers play in explaining to their fellow citizens the needs of offenders and the goals of correctional programs cannot be over-emphasized. Ministry staff are highly conscious of the fact that much of the public is not well informed about the justice system, particularly the area involving correctional services. For this reason, the ministry is encouraging its staff to seek out opportunities to increase public understanding and awareness of our programs. This involves speaking engagements in schools and colleges, at service club meetings and in other public forums where they can address a wide cross-section of the community.

In this connection, ministry staff were very active in the highly successful Community Jus-

tice Week, April 17 to 23 of this year. This initiative by my colleague, the Honourable Norman Sterling, when he was Provincial Secretary for Justice, brought local justice and corrections officials in communities across the province together with civic business leaders, schools, social agencies and the media. They worked co-operatively to foster a sense of community responsibility for all aspects of the justice system and to increase citizen participation in crime prevention.

Ministry staff also helped to organize tours of correctional institutions, open houses at field offices, panel discussions, open-line radio shows, television interviews, newspaper articles and a host of other activities. The positive response by the public demonstrated there is an interest and a need for more information. My ministry intends to increase its efforts to meet this need and to encourage a greater participation of the public in correctional programs and in debate and dialogue concerning them.

I would like to turn now to the subject of staff training. The ministry operates a staff training organization which caters to the skill training and personal developmental needs of its human resource. A wide range of programs are designed to suit the needs of all categories of employee, from those who have been newly recruited through to those at the management level.

The organization is currently divided into two principal groups. One of these caters to the staff training and development needs of institutional personnel. The other focuses on the developmental needs of the community programs personnel.

Fiscal year 1982-83 was a very satisfactory period for staff training. It witnessed a significant increase in productivity in terms of trainee man-days, of broadening the scope of the program of staff training and development, of the opportunities for personal development through education and of the in-depth review of the courses offered to the ministry staff.

12:20 p.m.

In 1982, for example, the program of institutional crisis intervention team training reached its full potential in providing institution managers with a strong response capability in crisis situations. Early in 1983, the ministry launched a new program of crisis intervention which focuses on training selected ministry staff to "talk down" crisis situations through mediation and negotiation. When this program is completed in 1984-85, superintendents will have a

full range of options in the resolution of crisis situations within their institutions.

In 1982-83, another major study was concluded which made important recommendations concerning the probationary correctional officer basic training system. This review included representation from the Ontario Public Service Employees Union. The ministry is seriously considering expanding the present course from three to five weeks and strengthening the on-the-job component of the training of new correctional officers.

The community programs support services branch provides training and development courses for probation and parole staff, Ontario Board of Parole members and staff, and individuals working in community resource centres or community agencies under contract to the ministry. The courses include basic training in law, social work and administration, which are required for all new probation and parole officers.

This branch develops courses as the need or interest arises and provides 30 specified courses; a number of these are specifically intended for management development. The branch has the assistance of an advisory group of operational managers in identifying training needs. It projects that it will provide more than 3,100 person-days of training in 1983-84.

The ministry has now formally established an advisory group, called the staff training advisory council, which will advise the executive director of the institutions division in matters relating to institutional staff training. The council is presided over by a regional director and consists of senior representatives of the staff training and development branch and senior field management. The council expects to focus its initial attention on the issues arising from the implementation of the new correctional officer training system.

Management training continues to receive a great deal of attention. A recent three-day seminar was held for a number of our superintendents and wardens from the Ontario region of the Correctional Services of Canada. It is anticipated that this very useful exchange of ideas will continue into the future.

While the ministry now makes a significant investment in the training and development of its staff, it will continue to seek ways and means of upgrading the effectiveness of this highly important area of operations. Attendance at conferences often helps staff to increase their knowledge of programs and developments in mutual and related fields. Listening to informed

speakers and actively participating in workshops stimulates renewed enthusiasm for their work and encourages them to adopt new and innovative approaches.

During August 1982, Ontario was pleased to co-host the 112th annual Congress of Corrections in Toronto. Ministry staff worked with their federal counterparts and the American Correctional Association to develop the program for this highly successful conference, which drew 3,000 delegates and speakers from all over the world. During last year's estimates, I pointed out to committee members that this congress was the single most important event for individuals concerned with corrections. I urged committee members to attend at least some of the sessions and offered to assist them in registering for this event.

This year the second World Congress on Prison Health Care was held in Ottawa from August 28 to 31. This congress was sponsored, on behalf of the International Council of Prison Medical Services, by the Solicitor General of Canada with support and assistance from the provinces and territories. Hosting was provided by the Correctional Services of Canada, the city of Ottawa and the provinces of Quebec and Ontario.

The purpose of this congress is to provide and present a forum for exchange of knowledge and skill among those from various countries of the world whose professional work includes the health care of the offender.

Since 1980, my staff have been assisting the federal government in the congress management and were representatives on the national steering committee and the congress management secretariat. In addition, my deputy minister, Dr. George Podrebarac, was a member of the national advisory committee.

It should be noted that this was the first time a forum of this type had been held in Canada. Approximately 700 delegates from 40 countries attended. In view of the magnitude and significance of this congress, we encouraged ministry staff to support it and to participate actively in sharing our knowledge and concerns with practitioners and experts from other parts of the world.

Since the introduction of the affirmative action program in 1975, the Ministry of Correctional Services has been working towards equal opportunity for all its women employees and has achieved considerable success. The representation of women in the ministry has improved by 9.6 per cent during the period of the program

and women now comprise 26.7 per cent of ministry employees. This increase is due primarily to significant numbers of women entering jobs as correctional officers and probation/parole officers.

The ministry is a recognized leader in North America in the employment of women in correctional institutions, and Ontario was the first province to hire women as correctional officers for adult male institutions. Currently we have 355 women correctional officers, 225 of whom are employed to work with male prisoners in maximum-, medium- and minimum-security institutions. Women comprise 37.6 per cent of all probation/parole officers.

In December 1982, Ms. Beverly Johnston was appointed superintendent of Kenora Jail. She is the first female superintendent of a maximum-security correctional institution for men and women in Ontario. Another appointment of interest in the management ranks is that of Ms. Barbara Stanley as deputy regional director in the institutions division, eastern region. She is the first woman to become a deputy regional director in the ministry.

Not only does the ministry have excellent staff of both sexes, but it is also very fortunate to have in its employ people from many cultural, ethnic, racial and religious backgrounds. This valuable resource assists us in our provision of services to a multicultural client group. Approximately 20 per cent of our staff—that is, about 1,000 of our employees—have the ability to communicate in at least one language in addition to English and the combined ability to speak almost 60 different languages.

In recognition of the varied backgrounds of our employees and client group, the ministry has embarked on a pro-active human rights program. On Human Rights Day, December 10, 1982, the ministry placed framed copies of the Ontario government's policy statement on race relations in all our institutions and offices. The frames were manufactured at the Mimico Correctional Centre. I have a supply of the plaques available if any member of this committee would like a copy for his or her office.

Over the past several months, officials of my ministry have been working in consultation with Dr. Dan Hill, former chairman of the Ontario Human Rights Commission, and with current staff of that commission, to develop a ministry policy statement of human rights. This comprehensive document is a clear demonstration of our commitment to creating a climate in which our employees, clients and members of the

public who come into contact with our correctional system are treated with understanding and respect for the dignity and worth of each person. This policy statement was issued to all our staff and publicized in our ministry newsletter, *Correctional Update*. This is currently being followed up with training and educational programs.

In closing, I wish to thank the many volunteers, individuals and private agencies who daily extend a helping hand to the offenders in our care and custody. The co-operation and the invaluable assistance which they provide to ministry staff are also greatly appreciated. I wish also to extend my sincere appreciation to the staff of the ministry for their loyalty and dedication. I am extremely proud of this outstanding team of professional workers and the commitment they consistently demonstrate in meeting the day-to-day challenges of their work in the difficult and complex field of corrections.

12:30 p.m.

Mr. Chairman: Thank you, minister. As a member, I certainly would like to avail myself of the opportunity of receiving one of those plaques if at all possible.

I would now like to turn to the critics and the responses from the critics. I think we should start with the critic of the official opposition, Mr. Spensieri.

Mr. Spensieri: Mr. Chairman, it is indeed a pleasure to be able to address such a comprehensive address by the minister. At the same time, I would like to take the opportunity to welcome the new deputy minister.

It was a bit of a precursor to the Wintario program when in the olden days opposition critics were able to run lotteries as to who the next minister presenting the next set of estimates would be. Now that we have been relieved of that favourite pastime, I guess we can only continue to speculate as to whether the deputy ministers will move on to their rewards on as frequent and routine a basis as the ministers used to.

The minister's address in this, his third set of estimates, is intended to convey the feeling, to lull us into a sense of wonder and security about what is going on in the field of corrections. The minister touches upon such key phrases as "action for natives," "affirmative action for women," "international conferences of tremendous import and significance." He throws in something for the ethnic, religious and

multicultural sectors. He speaks of food "cost avoidance;" I think those are the words.

There are platitudes about energy conservation and a reference to the Board of Industrial Leadership and Development program. He wraps it all up in a feeling of tremendous technological improvements through computers and ends up on a note of human rights for all. I think it does achieve a sense of attempting to lull us into a feeling that all is well, but that is not the case; neither is it the job of the official opposition critics to be so lulled.

It is interesting to note that Mr. Evans, who was shown to be on the panel, is not here today. I am happy I will have the opportunity to discuss some of our concerns with him next Wednesday, but from his own ministry the minister will be aware of statements made by Mr. Evans which seem to refute in no uncertain terms the general feeling that the minister's address is intended to convey.

To quote Mr. Evans from the *Hamilton Spectator* of July 22: "Pragmatism is replacing rehabilitation in the corrections field. 'There has been a collapse, if not the demise of the rehabilitation ideal,' Donald Evans told the annual Institute on Addiction Studies held at McMaster."

I would like to read from this article a little more extensively than I normally would because I think it sets a theme for the main items to which I will wish to address myself. Continuing with Mr. Evans: "'There is now a rise of penological pragmatism with no clear philosophy. If it works, we'll keep it; if not, we'll try to get rid of it. There's a lot of tension in the system, with no clear-cut ideology.'

"Mr. Evans said recent trends in the corrections field include better educated and more critical participants—both staff and offenders; more emphasis on prisoners' rights, more attention to victims and a demand that offenders become 'economic producers rather than captive consumers.'" I will refer to other parts of his statement as we go along.

I think this is an all-pervasive kind of trend that has developed in corrections. We have to bear in mind that the system on a very consistent basis caters to a large number of people, not just the offenders and the persons in the detention centres or on probation, but as well to the people who help to keep them there.

When we have a system which at any one time houses 7,000 people and has in the range of 6,000 people, an almost one-to-one ratio, supervising their period of residence or of

involvement with the correctional system, we face what becomes, in effect, an economic nucleus, an economic component of government spending and government involvement. That being the case, you develop the normal consequences of any other large economic group, a large chunk of the provincial budget.

While it is very laudable that trout farms, trout hatcheries, hog-raising centres, potatoes and whatever are becoming the norm and the trend, we have to ask ourselves whether this cost avoidance is being promoted for its intrinsic value, for its rehabilitative efforts, which, as Mr. Evans indicates, are not paramount, or whether it is one more component of that economic budgetary item. In other words, whose interests are really paramount?

Is the cost avoidance, the need to work within restrictive budgets, the need to work within a curtailed budget, the primary consideration? Who is serving what purpose? I would like the minister really to address himself in the course of these estimates to those motivations behind the expansion of these programs.

Are we really creating a captive consumer group, a captive producer group for the purposes of serving the ministry? I would like him to address the willingness of the subject population to participate in these activities. What is the real response? Is it one of forced participation or one of enthralled acquiescence?

I have also noted with the year-by-year coming in of these estimates that the figures are rapidly on the increase. In the first estimates the minister had the opportunity to present we saw a vote of approximately \$163 million, which jumped to \$184 million and is \$218 million today in the course of his third set of estimates.

I would like to ask the minister and his staff whether this increase in budget from a statistical standpoint bears any relationship at all to the cost of one detainee per day or the median cost. I should say, bearing in mind the various types of institutions where detainees are kept. We see that the cost per detained person varies today from a low of \$44 in the Peterborough area to about \$68 to \$70 in a metropolitan setting such as the Toronto Jail.

I would like the minister and his staff to indicate what the statistical comparison is between the ever-expanding budgets and the median costs per day per detainee over the same period of years. Perhaps a five-year or 10-year period would be instructive in the circumstances.

12:40 p.m.

The reason for delving into this, as I am sure the minister will appreciate, is that we have to bear in mind that the Ministry of Correctional Services exists primarily to be of service. It exists to provide those detention and other services needed for the 5,000 or so people across the province and the roughly 2,000 in the Metro area.

It seems to me no budget and no set of estimates can ever be justified, or should even be defended, if they do not bear a clear correlation to the rising costs of the inmate population on a per-head, per-day basis. Otherwise we get into different considerations. We see the unmanageable beast starting to develop without a clear-cut correlation to the cost for the detention of the individual in question. As I said, a median figure would be preferable, as opposed to the highs and lows.

We have seen in this set of estimates, I guess for the first time in a packaged form, the total picture with respect to new construction, expansion, and conversion of existing facilities. I know the minister has made periodic announcements in the House and elsewhere with respect to specific programs and specific conversion or expansion plans, but this is the first time we have seen a comprehensive package. It is impressive that the minister has been able to prevail upon his cabinet colleagues to receive a thorough and equitable allocation of the capital acceleration program for this very much needed area.

I really would like to question the minister and his staff on the degree to which the regional allocation of these bounties, these capital expansion programs, bears a direct relationship to needs. It seems to me, when I look at the 105 beds in the Rideau correctional area—

Hon. Mr. Leluk: Eighty beds.

Mr. Spensieri: —or 80 beds—I confess to having a bias towards the Golden Horseshoe or metropolitan area. When one looks at the various funds allocated geographically he is hard-pressed to find a direct relationship between the number of users or potential users and the costs.

One could take the view that the \$6.5-million allocation to the female facility in the Metro West Detention Centre is not justified, for example. It is not really commensurate with the expansion in the user population in the builtup areas of Metro, and the minister may have pushed for a greater portion of these very limited funds to be allocated there.

There has been very little reference in the address to the planned new detention centre for

the Golden Horseshoe area, the proposed \$60-million baby of the minister. It is my recollection from questions posed to the minister in the House as to what plans or detailed studies have been conducted, and as to the degree to which the minister would like to make those studies and the needs analysis known to the members and the public, that the minister seemed to indicate in no uncertain terms that he had taken his staff's advice and that was it; there was no need to delve further into the proposed construction of the detention centre for the Golden Horseshoe area.

My concern this morning is to attempt to elicit from the minister and his staff a little more detail as to the kind of fact-finding that was entered into and the kind of site selection analysis that has been carried out, and perhaps to enlighten us a little more as to the areas that have now become the short list.

I know there is not as much interest in this as there is in a domed stadium, but I must tell the minister that we, at least those of us who have some involvement in the correctional field, are looking with equal trepidation and an equal feeling of excitement for the final winner to be announced.

Without wishing to associate myself with them, because I am certainly not an abolitionist-group sympathiser as far as the abolition of prisons is concerned, I would like to ask the minister about the wisdom of moves he has undertaken in creating a large number—I guess in the neighbourhood of 1,000 to 1,250—of high-security places or facilities within the short term. By short term, I mean the next two years.

Of the existing population that comes into contact with the correctional system, only six per cent represent relatively dangerous and long-range detainees. If one looks at that fact, it seems only fair to ask whether the present plans are too generous as to the shortfall the minister has indicated of almost over 1,000 by 1985, whether those projections are realistic and whether he sees our system of justice and sentencing creating a sustained need for those types of high-security and long-term incarceration facilities.

Definitely, the views of A Quaker Committee on Jails and Justice may appear to many of us in the field or in this area of interest to be less than failproof or foolproof arguments. On the other hand we have to ask, and I guess legitimately ask, whether the minister is not being too pessimistic about the needs that there will be

from now through 1985-86 for precisely these types of facilities.

I am more enthused about the conversion aspect and the exploration of other forms of detention facilities. The Pine Ridge centre in Aurora and the Bluewater Centre for the handicapped, these types of existing facilities allegedly being converted to facilities for young offenders, seem to me to be the type of initiatives that deserve nonpartisan support from all of us; the rationalization, the conversion, the betterment, the upgrading of existing facilities at a lower cost.

12:50 p.m.

In this connection, I would like to ask the minister and his staff whether a program designed to look at alternatives to capital construction can be demonstrated on their part. It seems to me there are a number of facilities that may not have had a correctional direction in the past but that could easily be converted. In some of the smaller centres, I can think of unused or only slightly used facilities normally associated with the tourist industry, such as motels or other accommodation, which one would not normally readily think of as being correctionally suited. It seems to me that if we are talking in a nonpartisan sense, as this committee always does, there have to be, even within the Golden Horseshoe area, alternatives to major capital construction projects breaking ground.

The minister represents a part of Metro with which I have as much familiarity as he does. He will be aware of recent changes, for instance, in the triangle area of Toronto, in the stockyards area along St. Clair, where large buildings, large facilities, large improvements on real estate which, for one reason or another, have been left largely vacant through abandonment by their users, such as Canada Packers. It seems to me that a ministry concerned with the allocation of very finite and dwindling capital resources ought to be doing a little more in the area of seeking facilities and buildings and improvements upon lands that could, with a minimum of cost, be converted to a correctional use.

In passing, I mention to the minister, and I am sure he is very well aware of them through his officials, some of the trends that may be happening south of the border, which perhaps deserve some consideration as well.

Mr. Shymko: The Chicago stockyards.

Mr. Spensieri: My friend says the Chicago stockyards. I am not aware of that, but there are recent and very positive developments in the

United States whereby the government has subcontracted detention obligations to private companies, to responsible individuals who are, in effect, going into the detention business for and on behalf of particular states. I may not be aware of all the literature or the material that is available in that field, but perhaps the minister's staff could comment on that to some extent.

Mr. Shymko: Could I just add to this? As regards the reference to my riding and the junction area, I am very flattered to hear a supportive comment on some of the uses of the land. I just want to say in reference to the stockyards and the vacant lands, I am sure the ministry is most welcome to look at beneficial uses and I thank the member for raising that point.

Mr. Spensieri: I had those remarks prepared. I did not start that because of your presence, but I am sure they will receive some thought.

I do not believe, given the extensiveness of the minister's address, I will be able to address myself to many of the points I had wished to raise. I am in your hands as to whether you wish me to continue to the clock or whether a more appropriate route would be to allow me to digest more fully the very extensive address and pick up on it when we next resume.

Mr. Chairman: I think this may be a good time to adjourn.

Mr. Renwick: Just before you adjourn, could I ask the minister, what is the date of the last annual report? Is the March 31, 1983, report there?

Hon. Mr. Leluk: March 31? This is it.

Mr. Renwick: For 1983?

Hon. Mr. Leluk: This is the 1983 report. Do you not have a copy of this?

Mr. Renwick: I have not been able to locate it.

Dr. Podrebarac: It was distributed just yesterday.

Mr. Renwick: Distributed yesterday, was it? It is probably in my office this morning then.

Hon. Mr. Leluk: If you do not have one, I will make sure you get one.

Mr. Renwick: As I say, it may be in my office this morning.

Hon. Mr. Leluk: Do you want one?

Mr. Renwick: I would appreciate it.

Mr. Chairman: Yes, Mr. Spensieri, I think this may be an opportune time to adjourn. That would give you a little more time to digest some of the facts that the minister has presented. I will adjourn the meeting at the present time and we will resume the estimates of the ministry at 10 a.m. on Wednesday next.

The committee adjourned at 12:56 p.m.

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Podrebarac, Dr. G. R., Deputy Minister



No. J-13

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice
Estimates, Ministry of Correctional Services

Third Session, 32nd Parliament
Wednesday, October 26, 1983

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, October 26, 1983

The committee met at 10 a.m. in room 151.

ESTIMATES, MINISTRY OF CORRECTIONAL SERVICES

(continued)

Mr. Chairman: Gentlemen, I see a quorum and I think we are ready to proceed. Mr. Spensieri, would you continue with your remarks to the minister, please?

Mr. Spensieri: Mr. Chairman, last week we were in the process of responding to the minister's lengthy opening statement. I appreciate very much the opportunity of having the time to consider it further. The remarks which I will continue with are not in any particular order of importance of significance; they are just things which concern us as the opposition critic and which concern my colleagues and, therefore, this is an appropriate time to raise them.

In his statement the minister made a great to-do about congratulating the staff, especially at the institutional level, for their great co-operation during a time of stress and certainly during a time of real overcrowding. I wonder if the minister, in being so congratulatory, is perhaps trying to skate by the issue of the various reports, including the Ontario Public Service Employees Union report of February 1983, *A Crisis Behind Bars*.

I also wonder to what extent the minister has considered the recommendations made in that report and whether there are recommendations which are about to be implemented. We saw that one of the recommendations, calling for a more protracted period of formal training for correctional officers, was implemented, at least in part. I am just wondering which of some 10 further recommendations are now in the process of being considered and implemented.

The minister was equally lyrical about the expansion in the number of the people on parole, mentioning that we have grown from about 10,000 a few years ago to 37,000 people actually on probation. Without wishing to be unduly cynical, I wish to ask the minister in all sincerity what is the feedback from out there? Are the parolees indeed people who should be on parole? To what extent are the parole

decisions being based on these very difficult crowded conditions?

It is not difficult to be cynical when one considers that one of the minister's own people admits that there is a greater emphasis on community supervision, including parole, which can lead to the myth that "all dangerous people are in prison and all nondangerous people are in the community." This was from Mr. Donald Evans, to whom I referred earlier.

It seems to me that it is legitimate to ask whether the current problems of housing and of beds are having more than their undue share of influence in the parolling decisions.

I would like to turn next to something about which I have corresponded with the minister during the course of the year, and which I had raised with him before, and that is the issue of the Toronto/York Bail Program. It just so happens that Mrs. Morris is a constituent of mine, and I do not think I need to delve very much into the details of the case, or at least the specifics, because I am sure the minister is well aware of them.

I would raise with him the more general question of what really happens when a particular correctional function is contracted out to an agency such as the Toronto/York Bail Program. It is the largest private organization in this field financed by the Ministry of Correctional Services.

While I appreciate the minister's earlier statements to the effect that these local community groups should have the greatest degree of autonomy in conducting their affairs and in carrying out their mandate once they receive the contract, it seems to me that when internal blowups such as these occur, the minister, as the chief funder of the agency, ought to have some means available to him, short of the brutal approach of cutting off funds, whereby he can get involved in putting things back on the rails.

Leading a little further into that, it seems to me that the bail issue has become so paramount, because people on detention awaiting trial form such a large component of our inmate population, especially in the Metro area, that perhaps the minister and his staff should consider at this time whether the ministry ought to become a

direct participant in the bail process. By that I mean the ministry ought to be present, through its officials, at the various show-cause hearings when trials are being conducted, and bail arrangements ought to become a direct ministry function, perhaps through the use of the community resource centres or through the expanded use of existing personnel.

It seems to me that this type of very critical function ought not to be dependent upon the vagaries of volunteer community groups available to take up these contracts. There used to be a time when the accused and the public interest had conflicting desires. The accused, of course, wanted to be out of jail while awaiting trial, and there was a perception out there that the public was best served by keeping him in jail while awaiting trial.

We have now sort of come full circle. The ministry wants to keep people out of jail almost as much as they want to be out of jail pending trial. Perhaps if the bail supervision and the bail granting process came more within the purview of the ministry on a very direct basis, through its community services division as opposed to its institutional division, then we might be a long way towards solving some of the overcrowding issues.

I note that the minister plans to expand the number of community resource centres by, I think, 10 over the next few years. Perhaps some consideration ought to be given to an adjunct of that function to cover direct bail arrangements. I realize it is a novel area to get into, but perhaps it is something whose time has come.

I note from press clippings, etc., that the jails are becoming more and more the target of lawsuits and judgements and that substantial amounts are being awarded. In this connection, I wonder what steps are being taken to provide security within the jail cell so as not to give rise to the various claims which have taken place over the years.

I look at the *Globe and Mail* report of September 22, 1983, which says, "Prisoner Awarded \$36,000 for Being Kicked." It was held that the authority had not exercised reasonable care for the prisoner's safety. We are seeing more and more a principle being recognized in the courts that there is a duty of care, a reasonable standard of safety which must be provided to the inmate.

10:10 a.m.

I guess it leads to the further issue of the appropriateness of the classification system, putting prisoners with prisoners who should not

really be there, thus creating a situation of danger.

I realize that the province was insured in this case and that the insurance company paid more than \$32,000 out of the \$36,000 for the judgement, but I guess insurance policies have their costs as well. I would like to ask the minister what steps are being taken to deal with the issue of increased grounds for liability being found and also for the increased awards being given.

I note that in our own Toronto Jail Mr. De Grandis and others have been instrumental in putting together suicide alert systems and emergency systems. But leading from my earlier remarks, I would also like to ask the minister what particular steps are being implemented with respect to reducing risks and reducing possibilities not only for suicides, but also for personal injuries which can all lead to added expenses to the ministry, as well as the obvious problem of citizens not receiving adequate protection while in detention.

Following from the minister's statement with respect to the world-class conferences which were held and which we were fortunate enough to host, I would like to ask the minister, specifically in the health and drug use field, whether there is any consideration being given to the Swedish approach, which was indicated during this health conference. This approach uses obligatory urine tests to detect drug use. Are any steps being considered in that direction?

I should say to the minister that with the growing perception out there that drug use is becoming a major problem in our institutions, he might find a considerable degree of support for introducing any means which would lead to a reduction of this serious problem.

The health conference also seemed to focus on the adequacy of medical services, not just in our own jails, but on the world-wide scene. What steps have been taken to provide adequate medical services? There is the question of the availability of doctors, the willingness of doctors to provide services and visits to correctional centres, the specific health-care needs of women in prisons and so on. It seems to me that we may have some real catching up to do in all of these areas.

Although this issue is not really in the forefront, it seems to me that many of the long-range detainees, the persons of two years less a day, single parents and mothers in particular, in some cases would leave behind young children. It seems to me that very little has been done in the area of investigating the effects which

long-range imprisonment may have on children. There may not be an adequate liaison facility or an adequate visiting and keeping in touch facility with respect to children of detainees. Perhaps the minister could address that issue, if he wishes.

Many of us were critical in previous estimates of what was called the work-gang mentality of some of the previous ministers who had the responsibility for Correctional Services. With the gloomy job situation, it is even more difficult to provide employment for people using the correctional facilities. Work gangs have fallen on really hard times, according to some of the headlines. Some MPPs have been concerned about convicts stealing jobs from nonconvicts in their own ridings. I am wondering whether the minister could give us an overview of how it is going in that field.

Has it become impossible, especially in some regions of Ontario, to have the work program in effect for prisoners, or are things really the way they are stated? In the minister's address, things seemed to be rosy everywhere and there was really no trouble in finding adequate employment for people so eligible under the temporary absence program. I guess there is a real concern there that the program might work to the detriment of people trying to hold down jobs. I would like the minister and his staff to indicate what the feedback has been in that regard.

We note this year was marked, as in previous years, by some spectacular escapes. Many of these dangerous convicts are still at large. Following up from previous years' questions, I am wondering once again what programs are being implemented by the ministry to prevent this kind of occurrence. It seems to me many of the escapes that gained press notoriety this year were the result of human error or an error in judgement. None the less, the public has a legitimate right to be concerned, especially when untried, dangerous criminals are allowed to escape through our provincial detention system.

I had a few concerns to complete with the minister on behalf of some of my Liberal caucus colleagues who raised questions during the year. In one of her questions to the minister on December 3, 1982, Ms. Copps was concerned that many of the members' letters to inmates are reviewed by prison staff, as are responses. I am wondering whether the minister would consider expanding the traditional role of MPPs in dealing with inmates within the Ontario system and

grant some kind of privacy to the communications exchanged between us.

My colleague the member for Victoria-Haliburton (Mr. Eakins) also raised some questions about the parole board in his area functioning on a consistent basis with two as opposed to three members. The minister replied that he did not consider this to be an unduly alarming issue and that he would, if necessary, get enabling legislation to reduce the requirement that three members must be present on parole boards. Perhaps the minister could indicate what the practice is becoming or whether, because of the increased levels of applicants, the parole board should be allowed to operate on a less than quorum basis.

I had, as well, communications from a Mr. Spinks at the Guelph Correctional Centre, who had some concerns about what happens to an inmate's moneys and interest while he is in prison. I do not believe I received an answer from the minister or his staff on that. Mr. Spinks also expressed some concerns about the possibility that his mail directed to the Ombudsman for Ontario may have not been allowed to go on its merry course to the Ombudsman. Perhaps I could give these two items to the minister or his staff and ask for their comments.

10:20 a.m.

Aside from remarks on each vote item, that would conclude my remarks on this particular set of estimates.

Mr. Renwick: Mr. Chairman, time constraints mean that I do not want to raise a number of itemized matters in my opening remarks. I will try to raise them when we come to the particular votes. The problem, of course, is that the minister's interesting but lengthy opening statement and the responses of the two critics, when we only have seven hours to deal with these matters, mean that when the minister then replies, we are likely to find that we have no time to deal with the individual votes in any sensible way and we do not have any opportunity for adequate dialogue about problems of concern.

I could list 30 or 40 items which are of major concern to me and I hope we will have time to deal with them. If not, I will simply have to resort again to correspondence in order to try to get some sense of what we are about.

I did not have an opportunity to participate in the concurrence debates of the estimates of the ministry for last year, but I can assure the

minister I will not be placed in the same position I was last year and denied that opportunity.

Hon Mr. Leluk: Mr. Renwick, I was there on the night they called for those concurrent estimates to be heard. I was there, but you left at 10 o'clock that evening.

Mr. Renwick: Mr. Chairman, I did not interrupt the minister.

Hon. Mr. Leluk: I think we should set the record straight. I did not deny you that right.

Mr. Renwick: I did not interrupt you and I would ask you not to interrupt me. I intend in the concurrence estimates to try to put on the record the philosophy I attempted to express on my approach to the questions related to your ministry in a way which will be succinct, and I do not intend to enter into philosophical considerations of my approach at this point.

I have had an opportunity to look at the goals which are set out in the report of the minister for 1983, in which the goals of the ministry are established. I want to suggest that you give consideration to amending the ministry's goals by the addition of two or three thoughts which I think are important for a ministry such as yours.

I would hope that there would be an additional goal established for the ministry to study and report on recidivism within the system. I would ask that a further goal be added that the ministry provide the statistical analyses and studies which are essential to the achievement of the foregoing goals.

The minister knows that I have a very real concern, as the other ministers in the Justice portfolios have, about the inadequacy of the basic, statistical information, let alone the analyses and studies of that information, which would provide us with the basis on which we can make valid judgements. People may differ as to the judgements, but it is impossible to exercise valid judgements in this vexed field of justice unless we have the basis statistical information of all kinds which is required.

I note also that under the goals for the jails and detention centres and for longer-stay institutions in item 2, there is a provision for a humane environment for inmates. It provides for the necessary health and social services and for program opportunities to assist them in making positive personal and social adjustment.

I would ask that you give consideration to amending those two provisions to make specific reference to providing those medical, psychiatric and psychological services, and those vocational and educational services, which would

assist in making positive personal and social adjustment.

In that context, while I really do not know your new deputy, I welcome him to the position because he comes from a background in education. I think that is extremely important in the corrections field. With no disrespect to your predecessor, I think that is preferable to having a continuing emphasis on the legal aspects in the ministry. I look forward to the contribution your deputy will be making in this field.

I do not need to elaborate on the reasons I would like you to consider those additions to your goals. I have spoken on them on other occasions and in any event they are relatively self-evident. However, I think they would give a needed emphasis to areas where I believe there is some inadequacy in what the ministry selects as its goals for achievement and the focus that guides the work of all members of the staff.

I want specifically to refer to the glaring omission from your statement of any reference to the Young Offenders Act and where we are at present. I would like some discussion of the immense internal dissension obviously going on within the government over the relative roles of the Ministry of Community and Social Services and the Ministry of Correctional Services. It seems to be related to the vexed question of the essential procedures that must be followed so that we can accept the provisions of the Young Offenders Act in the spirit in which that act was drafted and to achieve what it was intended to achieve.

I have no expertise in this matter. I am indebted to the director of the centre for criminology for making available to me a copy of a letter written in August 1982, expressing some views on this question. I also have the very lengthy decision of His Honour Judge L. A. Beaulieu on April 14, 1982. I am grateful for it not so much because of the specific facts of the decision but because of the obvious conflicting capacities of the Ministry of Correctional Services and the Ministry of Community and Social Services which the judge tried to weigh in making a decision on whether to transfer a particular case for trial.

10:30 a.m.

I am not going into the jurisprudential problems that I have with that process, but I am concerned with the ultimate fact that the case was transferred to the ordinary criminal court, although the matter at issue before the judge was what options were available if the juvenile

was convicted and what were the best choices that could be made for him.

The judge himself came to some pretty rigid conclusions, but he did illustrate the difference between the capacity of the Ministry of Community and Social Services, as he understood it in that court, and the capacity of the Ministry of Correctional Services as to the choices available within the system.

As I say, His Honour appeared to me to be quite rigid in some of his comments. But let me try to put the issue behind this screen of secrecy as it seems to seep through to me, in the hope that the minister will feel capable during his estimates before us of being frank and clear about his attitude to the philosophical, practical, administrative and other considerations that leave this matter still unresolved within the government as to who is going to be responsible for the 16- and 17-year-olds when they come under the jurisdiction of the Young Offenders Act and the implications of that act for those persons.

The introduction of the ministry on page 13 of the report opens with these words: "The Ministry of Correctional Services is responsible for all persons in Ontario 16 years of age and over who are placed on probation or remanded in custody for trial or sentence." It goes on to talk about the offenders who, having been convicted, are within the jurisdiction. There is a categorical statement in this annual report, with no reference to the problem, that the 16- and 17-year-olds, as a matter of fact and as we know, are within the ministry's jurisdiction at this time. But where will they be when the Young Offenders Act comes into force?

A review of Judge Beaulieu's comments with respect to dispositions available in the case that was before him—and I do not believe I have been selective in the comments I want to make about it—has this to say: "If the accused were tried and convicted before the juvenile court, then the only realistic option open to the court in terms of sentence would be under paragraph so-and-so of the Juvenile Delinquents Act, committal to an industrial school." Then it goes on to state the position that was put before the court by the Ministry of Community and Social Services with respect to the kinds of care that would be provided for such a person at the Syl Apps Youth Centre in Oakville, and there is a brief analysis of what is available at that school.

The judge then goes on to say, "If the accused were to be transferred for trial in the ordinary criminal courts"—and, of course, that is not the

point of my comments; it is to illustrate the other side of the argument about whether the 16- and 17-year-olds should be within the jurisdiction of the Ministry of Correctional Services when the Young Offenders Act comes into force—"one of the facilities to which he might likely be sentenced is the Maplehurst correctional institution." Again, there is evidence before the court by a representative of your ministry about what is available at the Maplehurst correctional institution.

There is then a dissertation about the inadequacies of the Syl Apps Youth Centre to deal with this case and the kind of structured situation in which the person before the court might best respond. He says there would have to be "consistent, well-structured programs with the potential for graduated moves into the community, but always the power to remove from the community."

The judge poses what appears to be the dividing philosophy between the argument which must be going on in his view, a "we will take care of you" philosophy characterized by, if I may interpose the term, the Ministry of Community and Social Services, while "the responsibility is yours" philosophy prevails in the Ministry of Correctional Services. I have interposed the two ministries in that in order to juxtapose their positions.

I want to ask specifically that this kind of dichotomy be dropped in your consideration of the philosophy of what is required with respect to young adults between the ages of 12 and 18, which is the age range that will be covered under the Young Offenders Act.

I find it extremely inadequate to suggest that somehow or other the philosophy of the Ministry of Community and Social Services could be characterized as "we will take care of you" up to age 16 and after ages 16 and 17 that "the responsibility is yours" philosophy will apply when the Young Offenders Act in its provisions tries to say in substance, "A person before the court under the Young Offenders Act has rights as a person charged and has responsibility for his actions, but he is also to be regarded as a person requiring treatment different from that which would be available for adults."

The judgement goes on to talk about the deficiencies of the facilities available within the Syl Apps Youth Centre. It further goes on to state, "The defence argues that there is no guarantee that the accused will in fact be adequately motivated to take up any vocational program in the adult system." The judge's

comment is, "That is certainly true, but the court cannot ignore that the juvenile corrections system has even less to offer to the accused," which is quite a frightening statement when you consider that we are talking about an entirely different philosophy embodied in the Young Offenders Act.

10:40 a.m.

He refers in a disparaging way to the singular emphasis on academic pastimes within the juvenile facilities available within the province. He then goes on to talk about the final determination of whether the juvenile justice options are appropriate.

He compliments the juvenile system as having "contributed much to the general justice system. Indeed, the rehabilitation treatment and re-education components are virtually indigenous to that system. However, I am somewhat distressed at the tone of some of the admissions made on behalf of two ministries of the same crown in the course of this hearing." He carries on in those terms.

I trust sir, that out of those remarks I have been able to express to you the different philosophies and the problems with which we are concerned.

If Judge Beaulieu, the senior judge of the family division of the judicial district of York, is saying two separate and distinct things, if he is saying that for 16- and 17-year-olds the Ministry of Community and Social Services just does not have the range of facilities that the Ministry of Correctional Services has, then a judge looking at possible dispositions of a person before him has little choice but to opt for the Ministry of Correctional Services, because it would appear clear that there is a wider range of options in a structural sense.

If we are to implement the Young Offenders Act through the Ministry of Community and Social Services, then we are going to have to substantially increase the facilities and options available in that ministry—but not at the expense of the Ministry of Correctional Services. This will make certain that a judge, in trying to take advantage of the various ranges of options of sentencing with which he is provided under the Young Offenders Act, will have to be influenced to a great extent by which ministry has that range of facilities.

That seems to me to be an immense hurdle, and obviously it must be a frustrating hurdle for those who are putting forward the proposition that the Ministry of Community and Social Services is to have the responsibility for the

16- and 17-year-olds. It also raises serious questions as to whether facilities in the Ministry of Community and Social Services are adequate, even with the reorganization that has gone on, to provide for those who come within the scope of the Young Offenders Act, the 12- to 15-year-olds. That is a very serious, fundamental question of government policy.

What disturbs me behind that question of availability of options, as between the two ministries, is the sense that somehow or other the Ministry of Community and Social Services is engaged in some form of treatment, rehabilitation and assistance in the ministry, but if we go to the justice model, we are engaged again in the background of a punishment system.

I am concerned that, regardless of the developments that have taken place in your ministry, the philosophy of punishment is still a major part of the philosophy of the Ministry of Correctional Services, whereas all of those who have been involved in the field of child and young adult care and attention are prepared to say that the deterrent aspect is important, but the major question and model is for treatment and care, and that orientation is essential. This leads me to believe that it is the Ministry of Community and Social Services to which the responsibility should be given for 16- and 17-year-olds.

I do not know whether what I have heard is rumour or not. It sounds quite cynical to me and I would certainly appreciate any comment the minister would make. I have heard that the implementation of the policy of moving young people out of the homes for the retarded throughout the province is to provide facilities for the detention in segregated circumstances of offenders under the Young Offenders Act.

I do not know whether that is true, but certainly the philosophy and the requirements of the Young Offenders Act are that there be separate facilities, just as within the court system there are supposed to be separate court systems; there are supposed to be youth courts. We have had no information whatsoever about those aspects, but they are not your responsibility.

I think it is interesting to know that Judge Andrews, reporting at the opening of the courts on January 7 this year, in my view in his comments seems to emphasize the care and treatment model as the important aspect of the work of his court.

He has this to say: "The family court judge deals with the matrix of society, adults as spouses and the differences between them; adults as parents and their children; children

whose mental, emotional and physical beings have borne terrible neglect or aggression, or who themselves have entered the underworld of criminal behaviour. There is economic and social distress on every side. It is largely invisible and illusory to most of us in this courtroom." That is the courtroom where he was making these remarks. "But to the judge of the family court, it is very real as he or she deals with the tragic consequences when people break under the economic and social pressures about them, so often with direct effect upon children."

Further on he goes on to speak of the Young Offenders Act. He says, "Under the Young Offenders Act, they will only be charged with federal criminal offences." He speaks about the need to have the gap with respect to provincial offences filled in, and the Attorney General (Mr. McMurtry) is working on that. He goes on, "It is a most difficult task establishing policy as to how these young offenders may best be dealt with, what court they should appear in, what range of penalties should be provided, what should be the power of arrest, attention and bail and other far-reaching questions of provincial concern."

"On April 1, 1985, the age limit for persons to be dealt with under the Young Offenders Act will jump from 16 to 18 years of age. The current case load of 32,000 per year will suddenly exceed 100,000 per year—an enormous impact of change on our justice delivery system. We pray for the wisdom of our lawmakers and hope that financial restraints will not require them to stray too far from the ideal system of law and administration."

10:50 a.m.

He then refers to the role which is being played by the judges with respect to the training of those judges in the philosophy and procedures outlined in the new Young Offenders Act. He goes on again to say: "The judge of the family division is in a unique position from which to ascertain the needs of the people he serves, to evaluate the local resources available to satisfy those needs and, therefore, to determine those which may be inadequate or lacking entirely. He or she cannot remain passive outside of court."

"In result, the judge uses his or her motivating influence to improve and develop local services. In this regard, in various parts of the province, we have helped to develop volunteer services in probation, in family counselling, in juvenile diversion and in restitution programs. Group homes have been developed, as well as observa-

tion detention homes and women's crisis intervention centres. Clinical assessment services have been supported and are created in consequence of the initiative, skill, influence and, above all, the genuine concern of our family division judges for the welfare of the people in his or her community."

Let me give the judges of that court credit for wanting to have that kind of sensitivity about the community with which they must deal. Now that your estimates are before us, I am asking very much if the government—you, sir, as one of the lead ministers in this controversy and the Honourable Frank Drea as the other lead minister in this conflict—would try to sort out this problem, which I think is a major inhibiting factor, along with the difficult administrative and facilities problems which are inhibiting the genuine and wholehearted acceptance of the philosophy of the Young Offenders Act.

I think that this is my major concern. I hope I have been able to express the two aspects of it in a way which will allow the minister to tell us frankly what the problems are and where the resolution of this responsibility is. As an outside observer, listening to the little bits that come through about this argument and knowing something about the concern in the social services for the young people's community about this problem, my instincts tell me about the immense amount of work which was done to transfer children's services and to reorganize all of the work, which was done under Associate Deputy Minister Thomson when he was with that ministry and when Mr. Norton was the minister and which now applies, as I understand, to all children up to and including the age of 15.

Inadequate as Judge Beaulieu may feel the facilities are, that is the place where 16- and 17-year-olds should be dealt with. I cannot see a transitional stage where for a while it would be in Correctional Services and then go to Community and Social Services. That appears to me to be unreal. I think it would be most unwise if we did not accept the general principle of the Young Offenders Act that young adults—that is, those 12 to 18—should be treated within the same framework with whatever distinctions have to be made, and that we should not hive off the 16- and 17-year-olds into some separate and special category which may have parts of one philosophy and some little part of another and be so enmeshed in the adult system that we will never extricate them from it.

I will not go into all the questions of the extent to which one's behaviour is determined by

circumstances or the other theory that we are all responsible for our acts and we must accept that responsibility. That dichotomy seems not to be helpful.

I wish your ministry would be prepared to relinquish any claim on the jurisdiction of 16-and 17-year-olds. I would like you to assist the Ministry of Community and Social Services by transferring to it those in your ministry who have the special skills, knowledge and ability to deal with these young people. I would like to see that ministry provided with the range of options which will allow the family court judges to express the sensitivity they should and which Judge Andrews expressed in his dispositions.

Mr. Chairman: Mr. Leluk, are you prepared with a response to some of the concerns the critics have expressed?

Hon. Mr. Leluk: Yes, I am.

Mr. Spensieri yesterday opened his remarks by saying my statement conveyed a feeling of security—I believe those were his words. He noted there was action for women and native people and that we talked of international conferences. "It almost gave the impression he was attempting to lull us into feeling that all is well in this ministry." Before I get into the more serious questions, I would say everything contained in that opening statement was factual.

I am very proud of the achievements my staff continue to make in this ministry. Certainly I make no apologies for talking about all the good and positive things this ministry has been doing over the past year. If we do not talk about it, we certainly are not going to read about it because the media do not tend to talk about the positive things that are accomplished in this ministry. We only hear about the bad things. I am very proud of the achievements over the past year and I want to commend my staff on the excellent work they continue to do on behalf of this ministry and the people of Ontario.

Mr. Spensieri: Don't get defensive.

Hon. Mr. Leluk: No, I am not defensive. I just want to set that positive tone for the rest of my remarks.

I believe you quoted from a newspaper article in which Mr. Evans was reported to have questioned the existence of and/or wisdom behind current correctional philosophies and treatment strategies or lack thereof. Mr. Evans is the director of our community programs division.

The quotations you referred to, as reported in the Hamilton Spectator, were extracted from a

45-minute address to a very specialized audience of rehabilitation and treatment workers. In making his comments, Mr. Evans was giving his own analysis of the whole field of corrections and attempting to help his audience understand the present climate in the field of corrections in the western world. I am pleased to say Ontario correctional policy does not suffer under the same confusion, and other jurisdictions are consistently looking to Ontario for leadership in this regard.

Our own ideology is quite clearly articulated in the ministry statement of goals and principles. Operational plans are formulated to conform with those principles and goals. This ministry has a very clear ideology, and our programs and policies reflect that.

11 a.m.

I believe the member raised the issue that there were too many people in our institutions and that they were too costly to operate. He further stated we have 6,000 staff and 7,000 inmates or virtually a one-to-one ratio. This ministry has no say in the numbers of offenders the courts place in our system. As he knows, we take them in when the police arrive with warrants of committal and we have no control over those numbers.

Once placed in our care, however, we utilize all the resources at our disposal to classify them on the basis of individual security and program needs with an emphasis upon the effective reintegration of the offender into the community. We use a diverse array of programs, ranging from specific treatment of such identified problems as substance abuse—being alcohol and drugs—sexual deviation and other mental and physical disabilities, on the one hand, to vocational and educational training and a provision of work experiences in a variety of settings, on the other hand.

He indicated we have 6,000 staff supervising 7,000 inmates or, as I said earlier, virtually a one-to-one ratio. To clarify this, the ministry has responsibility for supervising some 37,000 people in its community programs division and at peak times about 7,000 inmates in the institutional division. Therefore, the staff to which he refers are responsible for the delivery of supervision to almost 44,000 clients.

I would further add that our institutions need to be staffed 365 days a year, 24 hours per day. Therefore, the gross staffing figures can be somewhat misleading. As members are no doubt aware, we provide coverage around the clock, generally with a three-shift arrangement, for our

incarcerated population. At no time would all of the staff in the institutions division be on duty.

Mr. Spensieri: It is still a lot better than the teacher to student ratio.

Hon. Mr. Leluk: No comment.

Hon. Mr. Leluk: I think you also asked us, Mr. Spensieri, to provide an analysis of the median per diem rate as it relates to the minister's budget for the last 10-year period. From the fiscal years 1973-74 to 1982-83, the median per diem rate has gone from \$31.55 to \$73.74, an increase of 133.7 per cent. In the same period, the budget for Correctional Services, which for comparative purposes has been adjusted to exclude the juvenile program that is now part of the Ministry of Community and Social Services, increased by 227.2 per cent, from \$56,439,000 to \$184,679,000.

This was a period of massive growth in community programs, where budgets increased from \$6,358,700 to \$33,486,200 over the 10-year period. This increase is not reflected in the institutional per diem costs. It must be remembered that the period we are discussing has been one with double-digit inflation. As well, salaries, wages and benefits make up almost 80 per cent of this expenditure. For our employee group, wage settlements have on occasion been in excess of 20 per cent.

You also asked whether the correctional population forecasts are accurate. To that question I say that all our forecasts are based on past historical trends. The validity of the resultant forecast is contingent on the historical trends continuing. The past three years show sustained and consistent growth in incarceration rates. However, correctional data rarely if ever show smooth and sustained trends. There are always deviations from the trend, and it is entirely possible that there may be a period of slower growth than forecast. Indeed, there may be a period of some slight decrease in counts.

The major issue now is that the current construction projects are not designed to cope with projected future growth. Rather, we are facing a problem of coping with the present level of counts. Our current operational capacity is 7,281 beds and this has been achieved by double-bunking and, in some cases, triple-bunking. Our design capacity is in the order of 5,600 beds. Clearly, the system is heavily stressed. In fact, more than 7,500 days' stay in excess of the operational capacity were logged during September. Thus, on an average date in September something like 250 inmates were less than

adequately housed. We do not consider this to be a humane situation.

The current level of the economy is such that the province cannot afford to enter into a large-scale prison construction project. This is particularly true in view of the current popular mood, which is demanding harsher penalties but which shows a lack of knowledge or concern about how this is to be achieved. Our concern is not to house inmates in an expensive setting but, rather, to achieve some level of humane housing.

You also asked what the ministry has done to plan for its current and projected bed space shortfalls. Various plans concerning jail, detention centre and long-term institution accommodation requirements of the ministry have been prepared over a long period. The current planning was initiated in 1980, and the new population projection techniques estimated the future bed space shortfall to 1986-87 was in the area of 2,000 beds. This was after a number of capital projects and institutions had been completed.

The problem of institutional crowding was escalating. Increasing inmate counts were placing stress on design capacities as well as operational capacities and institutions. The Metro Toronto area was under the greatest strain and was therefore the focus of the ministry's attention. No single accommodation project was expected to alleviate this crowding stress, so a prioritized list of options to increase facility capabilities was prepared.

A ministry long-range accommodation plan was submitted to the cabinet committee for justice for review in October 1982. The plan projected ministry needs and strategies to 1987-88; as well, it contained a comprehensive description of the ministry's position on various special items related to accommodation planning. For example, female offenders' needs, security level requirements, treatment bed requirements, retrofitting of institutions and use of work camps in Metro area construction were all addressed.

The plan identified specific projects where bed spaces could be created throughout the province to meet the existing and forecast accommodation needs of the ministry. Retrofitting, upgrading, utilizing unused space and constructing new units were all proposed as strategies either to make the greatest use of existing resources or to expand where little opportunity for renovation could be identified.

The number one priority item on that list to address long-term needs was a Metro area detention centre. Four potential sites were provided, each with its respective advantages

and disadvantages. These reports were the product of much investigation by the ministry's facilities design planning group and the institutions division personnel.

11:10 a.m.

The long-range plan was approved in principle by the cabinet committee for justice in November 1982. At that time, cabinet suggested that a short-term plan be produced to highlight the ministry's short-term needs.

In December 1982, a submission entitled *The Short-Term Response to Immediate Needs* was submitted to cabinet. Then the ministry identified its current and future years' overcrowding problems based on the data that were available at that time. The submission was approved in principle by cabinet as a representation of the ministry's position on institutional overcrowding.

In May 1983, the ministry submitted to the Management Board of Cabinet its short-term accommodation plan to 1987-88, derived from the original long-range plan. More up-to-date projections, using 1982-83 year-end information, then estimated a requirement of more than 2,500 beds by 1986-87. The short-term plan contained component projects which were intended to interrelate to developing a comprehensive, integrated response to alleviating the stress of institutional crowding across the province.

A prioritized list of 24 projects was prepared, with a new Metro area institution again occupying the number one priority position. The items on the list were selected to reflect the projects that could be undertaken and or completed quickly to offset the crowding problems, the need for more higher-security bed spaces to accommodate the longer-stay offenders and the need for more higher-security bed spaces to accommodate the influx of short-stay, high-risk offenders. Projects were identified across the province wherever the greatest impact on overcrowding could be effected. In total, almost 1,200 new beds were proposed, more than half of which were in the central area of the province.

Also in May 1983 came the announcement of the province's capital acceleration program through the Board of Industrial Leadership and Development. Ten projects were selected by Treasury out of the ministry short-term accommodation plan to receive funding support of \$16.5 million. These 10 projects were selected to offset the ministry's overcrowding problems and to provide job creation opportunities in the poor economic areas of the province. More than 500 beds will be created through this

program. This, in conjunction with the almost 400 beds added over the past three years, will help to offset the shortfall of more than 2,500 beds, which is now expected in 1986-87.

It is quite evident that in the past six years the ministry has continually pressed for accommodation space in areas where bed space needs were most evident. But even if the current population projections fail to come to fruition, the ministry will still find itself in the most distressing situation of being unable to adequately accommodate those persons currently under its care. Population increases in the future can only aggravate an already troublesome situation and in anticipation of increased population pressures, the ministry has undertaken a contingency planning process.

I believe you also raised a number of issues in relation to self-sufficiency, other work programs, the employment of inmates and in particular the philosophy behind these programs and the degree to which inmates participate voluntarily.

It is the belief of this ministry that an emphasis upon work is an important approach in developing responsible behaviour. Indeed, I have been quoted on many occasions—accurately, I might say—as saying, "Doing time means doing work." I sincerely believe that we have a responsibility for teaching inmates the value of work in our society, for many of them have a poor attitude towards work which may contribute to their criminal behaviour.

In particular, the self-sufficiency program is in the fourth year of a five-year plan which was based upon the concept of benefits for the inmate, the ministry and the taxpayers of this province. Because of these benefits, it is the expectation of the ministry that medically fit inmates will participate as part of the rehabilitation process. It is a fact that many inmates are both keen and willing to take part in self-sufficiency programs.

In addition, as I have stated, the program has proven economic value. I would like to add that the trout processing venture at the Guelph Correctional Centre, which you referred to, has no connection with the self-sufficiency program. It is a joint venture with small business which provides an employment and learning opportunity for inmates at Guelph coupled with the provision of benefits for the small businessman. The fish are processed for sale on the open market by the Ontario Trout Producers' Cooperative.

You mentioned also the alternatives to incarceration in relation to the capital acceleration

projects and specifically the ongoing and future needs for increased security facilities. The capital acceleration projects, as identified under the BILD program, were selected from a list compiled by this ministry as part of its short-term accommodation plan. They were seen as projects that could be brought on stream rapidly and would meet the criterion of the BILD program, namely, to reduce unemployment by the creation of jobs.

The fact remains that despite our efforts to divert people from incarceration, our counts continue to rise. Obviously the courts, in assessing the people before them, have determined that incarceration is necessary for a variety of reasons. Some examples are: the wilful failure of someone to comply with an order that enabled him to continue to reside in the community; someone who is not expected to appear in future court proceedings or may attempt to influence the course of justice; someone who may present a risk to society, which could include violent behaviour or offences against property; or those who have failed in response to previous judicial orders.

Nevertheless, it is our impression that despite the projects identified under the BILD program, we shall continue to have a need for increased secure facilities. We continue to explore initiatives in the area of community-based correctional programs in those areas of alternatives to incarceration.

I believe you also said, Mr. Spensieri, that you would like to examine the BILD capital acceleration program allocation in relation to need. I think it should be recognized that the capital acceleration program is designed to provide capital works in the province, which also respond to employment needs over a short period of time; that is, two to three years. The allocation of the \$16.5 million was generous, but it did not permit any single large-scale project because of the time constraints and because of the need for some equitable distribution of funds across the province. Also, this work was in addition to planned construction under existing accommodation plans to that which had been completed recently.

The financial allocations under the capital acceleration program are here. I will go at this by region: central region, 41.7 per cent; western region, 4.9 per cent; eastern region, 22.2 per cent; and northern region, 31.2 per cent. When we consider the work that has been finished in the past three years and that is to be undertaken under the normal provision of accommodation

process, as well as the capital acceleration program, we find that a total of 974 beds had been provided or will be made available within the three-year period. Of these, 720 beds are in southern Ontario and 517 beds are in the central region.

11:20 a.m.

You also asked about the status of the Toronto south institution and where it is in terms of regional priorities. The need for a high-security institution in the Golden Horseshoe area, as I mentioned, is still paramount. The area of the province experiencing the most severe problems with excessive inmate counts is in the Golden Horseshoe area, especially in the local jails and detention centres. On peak counts during 1982-83, these institutions were functioning at 131 per cent of operational capacity and at 197 per cent of design capacity. Metro Toronto jails and detention centres were functioning on peak counts at 139 per cent of operational capacity and 250 per cent of design capacity.

In both the ministry's long-range and short-term accommodation plans, priority project one was a new 400- to 512-bed Metro area detention centre. The new facility would alleviate the pressing need for secure short-stay beds in the area and provide the needed basic support and program services in Metropolitan Toronto. The new detention centre beds would also relieve the pressures on the long-stay correctional centres created by inmates on waiting lists to be transferred to these facilities.

An in-depth review of the four potential sites was undertaken by the ministry's facilities design planning group in conjunction with our institutions division personnel and the Ministry of Government Services. The four suggested sites were Mimico Correctional Centre, Maplehurst Complex, Toronto Jail and the Ontario Correctional Institute in Brampton.

Each site was weighed in terms of its advantages and disadvantages with specific regard for such factors as site, serviceability, cost factor, access to courts and police, existing or proposed plans for the institution, visibility, centrality to the problem and historical or architectural significance. All four sites were already designated for correctional purposes.

The Mimico site may be the most appropriate, largely because of the pre-existing plans for the Metro Toronto South detention centre on this site. These plans could be readily adapted to construct a new secure facility, which would

directly alleviate the overcrowding in the core area.

However, attempts to gain approval for undertaking this project have not been successful because of continuing government fiscal constraints. As a result, interim and contingency measures have had to be taken in an effort to cope with the current and expected population pressures.

A new Metro Toronto detention centre is still a viable and effective option for coping with the Metro area problem. With each day's passing, however, the cost and the urgency of this option increases.

You also asked about the planned use of the Bluewater and Pine Ridge as regional centres for youth corrections and whether we as a ministry have looked into the conversion of other facilities; for example, whether it would be possible to utilize unused buildings in the St. Clair Avenue triangle area.

Over many years, the ministry has looked into converting unused facilities for its use. Going back to the years following the Second World War, the Burtch Correctional Centre near Brantford and the Rideau Correctional Centre at Burritts Rapids are two examples of facilities that were converted from military uses and are still in operation today.

We have also undertaken major renovations and retrofits of existing buildings. The Guelph Correctional Centre and the Mimico Correctional Centre are examples of this type of activity. We have, over time, examined the use of other disused government facilities, including the Lakeshore psychiatric facility, but have so far found them to be unsuitable to our needs unless very substantial sums of money are spent on their conversion and upgrading. These projected costs have often exceeded the costs of constructing new buildings.

Some of our studies have contemplated the use of prefabricated units to be installed in existing facilities or on the grounds of existing correctional buildings. These studies have led directly to the design of prefabricated buildings, of which the 10-bed structure at the Peterborough Jail on which I reported is a prototype.

With regard to using space that could become available in the St. Clair Avenue stockyards area, we would have to examine this matter in much greater detail before I could answer your question more fully.

Matters which we would need to resolve would include proximity again to the courts and transportation systems, also community atti-

tudes towards introducing a correctional facility in the area. Other considerations would include the cost of land in that area and in particular the cost of converting any existing buildings. One overriding consideration would be the requirements to establish a need for an additional facility in the mid-Toronto area and whether the capital moneys can be made available for such a building.

You also indicated that in some US jurisdictions prison retrofit projects and, in some cases, operations of facilities have been privatized and you asked whether this ministry had examined these possibilities.

I am pleased with the amount of privatization that my ministry has already undertaken. For example, in the institutions area one large minimum security facility, the House of Concord, is contracted to the Salvation Army and all of our 32 community resource centres are operated for us by private agencies. Food services are provided at many of our larger facilities by private catering companies and most of our medical, psychiatric and dental services are by contract with professionals from the community.

I am proud the initiative my staff has shown in the whole area of retrofitting existing facilities. Institutions such as the Waterloo and Wellington detention centres, which were converted from juvenile facilities, are admirable examples of creative application of this particular principle. In addition, our capital acceleration projects encompassing existing facilities and, in some cases, the addition of our own prefabricated units, reflect our commitment to search for practical and inexpensive solutions to the problems of additional accommodation.

You will also be aware of the large number of contracts with private agencies that are in existence in the community programs division in this ministry.

To go on with the questions that were raised this morning, I believe you raised a question regarding the participation of the ministry in the Toronto bail project.

The Toronto/York Bail Program is a private corporation which has received the status of a charity for tax purposes. As such, it has many objectives, only some of which relate to the bail project. At present, the ministry has a fee-for-service contract with that particular project and I believe you mentioned it was probably the largest one. I believe probably it is.

Therefore, as long as the terms of the contract are met, the ministry really has no author-

ity to interfere with the internal operations of the project. The only involvement for the ministry is through the evaluation of the services which are provided pursuant to the contract.

As members may recall, during the debate on the Ministry of Correctional Services Act in the early summer of 1978—and I know that both of our critics, Mr. Renwick and yourself, were there—the minister at that time, Mr. Drea, introduced a section into the statute which dealt with volunteers. At that time, many private agencies were concerned that the ministry would interfere with the daily operations of the agency. A commitment was made not to interfere and I plan to keep that commitment.

While individual members, past and present, of the Board of Industrial Leadership and Development project would like the ministry to get involved, I can assure the members of this committee that agencies, such as the Salvation Army, the John Howard Society and others, would be extremely concerned.

11:30 a.m.

Consequently, as long as adequate service is being provided to the ministry by that project, this minister does not plan to interfere with the internal management of that agency or any other agency. To do otherwise, I think would have some severe ethical and legal ramifications.

I believe you also raised a question about the work that is provided for inmates in our institutions, through the community programs that we offer. In these difficult days of unemployment and shortages of jobs in the community at large, we as a ministry are sensitive about this particular situation.

However, at the same time, we must and are providing meaningful work for those in our care, work which has an intrinsic value of rehabilitation and also which reduces tension in the institutions. To have inmates sitting around idly all day is not the best type of solution to this problem.

As it currently stands, we have a relatively large need for a number of products for this ministry, for our own particular use, and for other ministries with their needs, such as the Ministry of Health's psychiatric hospitals and a number of others. For example, we now produce most of our own needs, such as uniforms and bedding, for inmates. You are quite aware of the fire-retardant mattress program we have at the Mimico centre, and the textile mills in the various programs at the Guelph Correctional Centre which provide many of these needs.

As well, the self-sufficiency program was

designed to provide meaningful work and also to provide for much of the need in our own institutions for various food products, such as root crops, eggs, poultry and other meats.

We also manufacture a good proportion of the various safe security hardware items that are required in renovating many of our institutional facilities and in constructing the portables, the prefabricated security units that we are currently building.

Also, inmates are actively engaged in producing the steel prefab jail units. They are making the components and all the grille work, for example, as well as the lock system, which I believe was designed by our own staff, and items of that nature.

Finally, we have a number of worthwhile joint ventures with the private sector. For example, in leasing available space in our institutions, that sector employs some of our inmates and pays them the going union wage. This, in turn, helps to offset the cost to the taxpayers through the inmates' payments towards room and board and taxes, as well as looking after their dependants at home, keeping them off the welfare rolls.

We are able to gainfully employ approximately 400 of those inmates in our correctional centres, and these can be added to the approximately 700 who are engaged in the daily institutional maintenance work, in food production and light duties, as well as those who are taking part in the educational training programs, community work projects and those who attend school in a community through the temporary absence arrangements.

This is an excellent record and it is done at no cost or at minimum cost to the taxpayers of this province.

A question was also asked on the current climate with respect to overcrowding. Because we have more people in the system, the parole board is obligated to consider more people for parole. Our response to overcrowding is to provide hearings for all of those eligible for parole consideration. That is, all inmates who have served sentences of six months or more are automatically scheduled for parole consideration—pardon me, upon completion of one third of their sentence in the institution. Inmates with sentences of less than six months may apply for consideration upon completion of one third of their sentence. The criteria for making the parole decisions have not been changed.

While we are on the subject of the parole

board, I would like to address the question raised by the member for Victoria-Haliburton (Mr. Eakins) in the House earlier this year—or maybe it was in the latter part of last year—about the parole board and the use of two-member boards as opposed to three-member boards. I think at the time that the two-member boards were being used, this was done in less than 10 per cent of the cases which were considered.

However, there was a reader available at the time in the event there was a deadlock with respect to the two parole board members who were sitting on a particular case. This arose mostly in the northern part of the province because it was difficult to substitute members on short notice due to illnesses and vacations of members and because of the distances they had to travel. I understand that we are currently, and have been for some time now, back to three-member boards.

You also asked a question on what happens regarding inmates' money. You mentioned specifically a letter that you addressed to me regarding a Mr. Spinks at Guelph Correctional Centre. I must say that I cannot recall having received that letter. Was it to do with the payment of interest on inmates' money?

Mr. Spensieri: Now is as good a time as any; I will just give it to your deputy minister.

Hon. Mr. Leluk: Fine. This is a matter that is currently under the scrutiny of the Ombudsman's office. There have been ongoing discussions between that office and officials of my ministry. Further, the financial planning committee of the institutions division has included the matter on its agenda at its next meeting in November. I will keep you informed about the developments taking place in that regard.

A question was also raised about lawsuits and the protection of inmates. I believe the matter referred to was a 1978 decision, if I recall.

11:40 a.m.

Dr. Podrebarac: The Hudson case.

Hon. Mr. Leluk: Was that the Hudson case?

Mr. Spensieri: I believe it is.

Hon. Mr. Leluk: Yes, David Hudson. Following the decision of the court in the case of Mr. Hudson at Sarnia, a copy of the judgement was sent to all of our superintendents and regional directors on March 18 with a directive to discuss the matter at the regional superintendents' conferences with the purpose of reviewing their internal classification systems and other relevant matters. By the end of May, this had been

completed in all regions, I am told, and all superintendents have now reviewed their internal classifications systems, communications, the coverage of key posts and the importance of accurate documentation, and have taken the appropriate action.

There was also a question raised about our world-class conferences and the conference held in Ottawa this past August on prison health care. I think Mr. Spensieri mentioned the Swedish system in which it is obligatory that urine tests for drugs be taken as a means of reducing the problem.

Similar to the Swedish approach, we are giving consideration to using obligatory urine tests in our institutions to determine the possibility of illicit or unacceptable drug use by some of our inmates.

If our staff suspect that an inmate has ingested drugs other than those which may have been legitimately prescribed, as part of their investigation they would request a urine sample for testing purposes. If the inmate refuses to co-operate, he or she might be given a misconduct within the institution for lack of co-operation, but we would not try to force the individual to provide us with such a sample. In this situation, we do acknowledge the individual's rights. To do otherwise could potentially create some problems for us.

I should also point out that this approach would hold true for blood samples for similar testing purposes.

Mr. Spensieri and Mr. Renwick, both being members of the legal profession, I think would appreciate we would especially want to examine this proposal in the light of our new Charter of Rights and Freedoms. With respect, I am sure that is something that members of our legal profession would raise from time to time, in this area.

There are some other questions Mr. Spensieri posed but what I would like to do now is say we might have those answers for him for tomorrow and maybe we can carry on with some replies or responses to Mr. Renwick's questioning. I think that is what I would like to do if that is agreeable to Mr. Spensieri.

Mr. Chairman: Thank you, minister. That being the case, possibly we should proceed to vote 1601, item 1. Are there any questions on vote 1601, item 1?

Mr. Renwick: I think the minister said he wanted to reply to some of my comments.

Mr. Chairman: Mr. Renwick, I think he

suggested he would reply tomorrow, if I heard him correctly.

Mr. Renwick: Oh, did you? It is fine with me.

On vote 1601, ministry administration program; item 1, main office:

Mr. Renwick: There are a few matters I want to raise with the minister on vote 1601. I am in the minister's hands. If he believes there is a more appropriate vote he can tell me so.

My colleague the member for Nickel Belt (Mr. Laughren) and I have been concerned for some time about jeopardy to four or five people's jobs in Huntsville with the Ministry of Natural Resources.

Briefly, you will recall that when your predecessor put forward this community service order there was correspondence with the Canadian Union of Public Employees about the question of whether or not it was going to displace people from employment.

Mr. Frank Drea wrote to Grace Hartman in 1977 and said: "I wish to state unequivocally that in seeking tasks for persons to perform on community service orders the following guideline will be used. The type of work assigned would not eliminate any paid employment opportunities or existing jobs in the community."

Then there was the question of four employees of the Ministry of Natural Resources—a sign shop foreman, a carpenter, a sign shop painter, another sign shop painter, and then there was another person on contract. I gather that discussions took place when Mr. John Pahapill visited the engineering sign shop of the Ministry of Natural Resources in Huntsville. The purpose of the visit, apparently, was the possibility of transferring the operation to Mimico where the work would be performed by inmates.

The sign shop foreman had been employed since 1959, the carpenter since 1962, the sign shop painter since 1971 and the second sign shop painter since 1972. I understand that matter is still not entirely resolved. Are you aware of that? Is it appropriate at this point to ask you to respond to it?

Hon. Mr. Leluk: Yes, Mr. Renwick, I am aware of that situation. I have had some discussions with my staff as well as with the Minister of Natural Resources (Mr. Pope). The Ministry of Natural Resources, as part of its constraints, decided to close that sign shop you speak of in Huntsville. Since this ministry had been supplying some of their needs, they approached us to determine whether we were interested in supplying more, or even all, of their needs.

Their only alternative was to make local purchases from the private sector that would probably have some negative effects on their attempts at standard signage and, in all likelihood, the cost to government would have increased.

11:50 a.m.

Negotiations were proceeding satisfactorily for the transfer when the issue was raised of inmates allegedly taking jobs from civil servants. The Ministry of Natural Resources is going to have to emphasize that it was its decision to close that shop. It was not a decision made by this minister or this ministry.

I guess the question to be answered is really whether the shop was going to be transferred to Correctional Services or the work put out to the private sector. Having the work done in the private sector would not create any new jobs since the work would be spread over the whole province with very little impact in any one location. If the shop were transferred to Correctional Services then I think one job would be saved, that of the manager of the shop in Huntsville. We could have taken him on.

In discussions with the Minister of Natural Resources, my understanding was that one position in the Huntsville shop was going to be declared redundant—or two, I am not sure which—and that they were making some attempts to find gainful employment for two other employees at that shop. I think one was retiring and the manager would have come to us, and they were trying to find gainful employment for the other two. I am not sure what the current status of that situation is.

Mr. Renwick: Have any of the operations been transferred out of—

Hon. Mr. Leluk: Mr. Pahapill, do you have any—

Mr. Chairman: Excuse me. Could we get you to come up to the head table and identify yourself so we have it for Hansard? Right there will be fine, sir. Would you state your name, please?

Mr. Pahapill: Mr. Chairman, my name is John Pahapill. I am the manager of industrial programs.

No shop has been transferred; no work has been transferred. The work is being done by the Ministry of Natural Resources at present. They have not actually come through with the closing or transfer as yet. I believe the ministry personnel branch is dealing with the staff problem and until such time as they notify us as to the finality, we will not be doing anything about it.

Mr. Renwick: I appreciate that information. You can well imagine my concern and the concern of my colleague when we heard about this, because the sign shop foreman has 23 years' seniority, the carpenter 20 years' seniority, and the two sign painters 10, 11, or 12 years' seniority.

Could I ask one further question on item 1 on the bail program? I did not raise the issue because my colleague had raised it.

Ruth Morris, who was discharged from her appointment as director, not only had a press conference but has also been in correspondence with me and with Mr. Spensieri. When this problem arose, were you satisfied with the performance under the contract of your ministry? In other words, I take it your view is that you are not going to interfere in any way, with which I happen to agree. Does that mean the contract was being properly administered and fulfilled?

Hon. Mr. Leluk: As I stated earlier, the Toronto/York Bail Program is a private corporation. Yes, we do have a contractual arrangement; we provide moneys for the operation of that project. However, when the matter arose it was closely monitored by my staff. Our position was—again I want to reiterate—not to interfere with the internal decisions of the board of a private agency.

Mr. Renwick: I appreciate that and, as I say, I agree with that position.

Hon. Mr. Leluk: Really, I do not know the reasons for the decision taken internally by that board. It was a decision of the board and not of this minister or this ministry.

Mr. Renwick: I was just talking about your contract. Are you satisfied with the fulfilment by the bail project of their obligations under the contract with you for services?

Hon. Mr. Leluk: Again, I would say our position is not to interfere unless the decisions adversely affect the delivery of service to our clients.

Mr. Renwick: That is what I am asking. Was there any reason for dissatisfaction on your part with the performance of the bail program?

Hon. Mr. Leluk: No.

Mr. Spensieri: As a supplementary if I may, following from that question: I appreciate the need for noninterference, whether it be the Toronto/York Bail Program or any other agency, but short of cutting off funds or not renewing the contract in the ensuing contract period,

does your ministry have any other levers or controls or any kind of supervisory capabilities over the conduct of the activities of an agency during its period of contractual tender? Is there anything short of a cannon that you can use?

Hon. Mr. Leluk: As you stated, we can terminate a contract or not renew it. But, I say again, the decision taken in Mrs. Morris's case was an internal decision of their own board. On a day-to-day basis we hear of too much government interference in the private sector and in dealing with agencies such as this one. We had an arm's-length arrangement with that project, funding it but not interfering in its day-to-day operations.

Again, we would not intervene unless decisions taken by the board would in some way affect the delivery of service to our clients.

I do not know if that answers your question or not; but that is the answer.

Mr. Spensieri: It kind of says that it is either capital punishment or nothing.

Hon. Mr. Leluk: Mr. Evans might possibly want to add some comments.

Mr. Evans: I am Mr. Evans, executive director, community programs division. I would like to say that our area managers who are responsible for the execution and negotiation of the contracts are also responsible for monitoring them. It is not an either/or situation. People would be put on notice if we felt they were not living up to the terms of the contract so there would be time to rectify their situation. That is only fair. So there is an ongoing monitoring of the contracts as well as yearly evaluations of them.

I just might add, in response to Mr. Renwick's original question a moment ago about the service: No, we were not unhappy with the service; however, we have seen some considerable improvement in service delivery since the action taken with that particular board, which I am sure you must be aware has fairly wide representation from the community.

Mr. Spensieri: Through you, Mr. Chairman, to the minister or Mr. Evans, if possible. The minister did not choose to respond to my suggestion that perhaps bail arrangement would become a more direct function of the ministry. In view of your position within the ministry and in that field, is there any thinking in that direction?

12 noon

Mr. Evans: There is a considerable amount of thinking about and review of the whole relation-

ship of bail to the Ministry of Correctional Services. It is a difficult area because, as far as mandate is concerned, to get into it in a much fuller way may require some changes. As you are well aware, the business of bail is really a judicial function and certainly would be something we would have to take up with the ministry responsible for that in the situations that are involved. We have not necessarily been in a tight situation in terms of remand counts. They seem to be in a slight decline.

Mr. Renwick: I am not certain what you meant by your response, perhaps I did not hear it accurately. Were you involved in any way in any discussions with the board about any decision that they were having any internal problems?

Mr. Evans: No, not personally.

Mr. Chairman: Any further questions?

Mr. Renwick: Yes. I believe this is appropriate for the minister to answer. Could you give us a report on the status of the guards who were suspended or discharged as a result of the incident at Metropolitan Toronto East Detention Centre?

I believe there are two categories: the six guards who are under criminal charge and, I believe, in addition to that, there were four guards who were suspended for non-co-operation during the investigation. Could you give me a brief statement of the status of both of those matters in the criminal court and in the grievance proceedings?

Hon. Mr. Leluk: As I am sure you are quite well aware, the matters were grieved separately by the six correctional officers in question and the four who also were dismissed for withholding information or interfering with the course of an internal investigation into a beating of one of the inmates that took place.

The grievance boards have not yet made a final ruling, I am told. There has been no final decision.

Mr. Renwick: But the case is concluded, the argument and so on has all been made?

Hon. Mr. Leluk: My understanding is that the arguments are concluded in both of those grievance hearings. I understand, as you have also mentioned, there have been some criminal charges laid against some officers in relation to, I think, the six and that matter is before the courts at this time. Under those conditions, I feel I would not want to make any further comment. Maybe Mr. Duggan has something further he would like to add.

Mr. Renwick: There was supposed to be a preliminary hearing in July. Could you bring me up to date as to where that stands?

Mr. Duggan: I am John Duggan, the executive director of the institutions division. They have been committed for trial. We do not have a date for that trial yet. As the minister has said, the hearings have been held in front of the grievance tribunals and, as yet, we do not have the judgement of those tribunals.

Dr. Podrebarac: If I may, Mr. Chairman?

Mr. Chairman: Certainly.

Dr. Podrebarac: Further to your question the other day, Mr. Renwick. We have tracked the dates. We were advised there would likely be something on November 4. In checking that out we found that there may have been a preliminary hearing on the 24th. However, we found there was no preliminary hearing on October 24, so it is a matter of now checking with the crown attorney. So there is no definitive answer.

Mr. Renwick: The last case I want to raise directly with the minister is the Dennis Cadeddu matter and the decision of the Supreme Court in connection with his release because he had not been present at the time his case was reviewed by the parole board.

I raise my question because Dennis Cadeddu then died in the interval, as I understand from the press reports. My question is whether, as to the judgement of Mr. Justice Potts—that is the decision he made about the presence of such a person before the parole board—you have altered your procedure to conform with the judgement of Mr. Justice Potts. What is the position?

It was my understanding the ministry had appealed the decision. I just want to know what your practice now is. In view of the hiatus the case obviously will never be heard in the appeal court.

Hon. Mr. Leluk: I believe the decision referred to was handed down back in January 1983. The court ruled that revocation of Mr. Cadeddu's parole, in the absence of an opportunity for him to appear in person before the parole board, was in contravention of the Charter of Rights. I believe it is section 7. As of the date of that decision, the ministry complied fully with the decision rendered by Mr. Justice Potts.

Mr. Renwick: You complied with the decision of Mr. Justice Potts, so where there is a proposal to revoke parole, and assuming the person whose parole is going to be revoked can be located, that person would be entitled to be

present at the hearing at which the decision was made?

Hon. Mr. Leluk: That is correct.

Mr. Renwick: It is as if the appeal had been taken and the decision of Mr. Justice Potts had been confirmed on appeal.

Interjection.

Mr. Renwick: No. It was just the unfortunate circumstance of Mr. Cadeddu's death that made me want to finish the status of that matter.

Mr. Dombek: My name is Carl Dombek. I am the director of legal services with the ministry.

As you are aware, the appeal abated right after it was argued by Mr. Archie Campbell, the Deputy Attorney General. As a result of its abatement, most of the people who were in the Cadeddu situation had gone through the process of being discharged. Anyone who had requested a parole hearing had been given one by the parole board.

There were one or two other habeas corpus matters brought. One was with a gentleman by the name of Nunnery. Again, he was released based on the Cadeddu decision. As a result, we checked with other parole boards in other jurisdictions and I think the policy decision was made, "This is a good thing to do, to give inmates an in-person hearing when they want that opportunity."

Mr. Renwick: I am concerned about your expression, "if they want that opportunity." Is it the obligation of the board to request the presence of the client before the board, rather than leaving it for him to seek out the opportunity?

Mr. Dombek: That is correct. There is an automatic in-person hearing. However, an inmate is given the opportunity of waiving that if he so desires. He is advised when he is brought into the institution by the probation or parole officer who interviews him that, if he wants to appear before the board, he has that opportunity. That is now an automatic right that he has.

Mr. Renwick: I would be concerned about waivers. I do not want to pursue this at any great length, but the obvious question about a waiver under those circumstances is whether he is properly advised about his rights. That is the problem.

12:10 p.m.

Mr. Dombek: Yes, the legal branch very carefully drafted the waiver and we consulted with our colleagues down at the Ministry of the Attorney General. I do not think there is very

much difficulty with the waiver. The parole board and the probation services use that.

Mr. Spensieri: I am not sure if it is appropriate to ask it here, but since Mr. Dombek is here and we are in the process of upgrading our legal training, is there any further word on the appeal being taken with respect to the room and board charges case, involving the people serving weekend sentences? Does the minister have any plans to introduce enabling legislation allowing you to charge for room and lodging in the event of the appeal sustaining the earlier position of the lower court?

Mr. Renwick: That was the Casserly case.

Hon. Mr. Leluk: We complied with that decision and immediately our people were notified in the institutions to not charge the fee, as you know. As the minister, I have sent a letter to Mr. Kaplan in Ottawa asking that legislation be amended to allow an intermittent fee to be charged.

We feel there is sufficient public support for this type of program and we certainly would like to see the legislation amended to allow us to do that.

Mr. Spensieri: I would agree with you, and the sooner the better.

Hon. Mr. Leluk: I might just state as well that we have been advised by Mr. Kaplan's office that he is going to put it on the agenda for the uniform law conference which is coming up, I understand.

Mr. Renwick: I know that under this vote the minister would be very surprised to hear me compliment him, and I know I could wait for the appropriate vote, but I think it is important that he should know that I think the Glenn Thompson Home in my riding is a very fine operation. The fascinating thing about it is that I have had only one complaint about it and that was when the person first heard it was coming. I have never had any follow up of any kind on that complaint.

They had an anniversary session. I was not able to attend all of it, but I visited for a while and was shown through it. I talked to some of the people on the street who are neighbours and there was absolutely no adverse reaction at all. Indeed, I felt it was basically a positive reaction.

Hon. Mr. Leluk: Thank you very much, Mr. Renwick.

Mr. Chairman: Are there any further questions on item 1?

Item 1 agreed to.

On item 2, financial services:

Mr. Renwick: I do not need an answer now, but perhaps someone can provide me with it at some time. When I visited Metropolitan Toronto West Detention Centre and the Don Jail last spring, I was shown the information retrieval system on each person in the computerized system, the screen and so on, it seemed to me there was an immense amount of information about each inmate in the system collected and retrievable, relating not simply to the matter for which he was presently held in detention.

That is quite legitimate and I have no problem with that. I was interested in whether or not there is information being taken and retained through that system which should not be there.

If I am correct, for example, the previous record of convictions or acquittals or whatever had taken place that have nothing to do with the matter which was directly the cause of his present incarceration is on that screen. I do not pretend to have thought it through, but it does seem to me that there are questions about the privacy of the individual, even if he has run afoul of the system, with respect to what is put into the machine and what is available for instant recall by anyone who operates that machine.

I raise this simply as a concern I have not thought through. I would like to have some understanding about the rules as to what is put on that screen. Another thing is it seems to me there is a reasonable amount of personal, domestic information also on that screen.

Hon. Mr. Leluk: I will just comment generally and then I ask Mr. Algar to address your specific question. We are currently reviewing in total the data system and thinking in terms of potentially expanding that system.

Mike, could you respond to the specific question Mr. Renwick raised about the information contained on the screens?

Mr. Algar: We have somewhere in the region of a quarter of a million records of various individuals who have come in contact with our system since 1975. Some of those records are fairly extensive, going back as they do through all the time the person is with us, but only "need to know" information is made available.

I do not have the exact number of persons in my mind, but I think fewer than a dozen people have access to the entire record. There is a series of passwords that individuals have by which they can only key in information of the type they need to know.

At the Toronto Jail, therefore, one would expect to find that the admitting officers would

only know information they themselves have keyed in and some residual information that might relate to the health problems of an individual. If the person is an epileptic, for example, it is necessary to know that.

Of course, it is sometimes necessary to know some gross information about their behaviour in the past, but we do not allow our staff at the admitting area to have the complete record of the individual. Much more complete information is available to our classification office, the main office.

Mr. Renwick: I was thinking about the on-the-job person at a detention centre where a person is being detained awaiting trial, and the nature and extent of the information you have on that person.

Mr. Algar: Fairly limited information is made available to admitting officers. We have a system, as I say, of passwords and checks and balances so that people do not have access to information that is really none of their business.

Our system has been reviewed by consultants from the Ministry of Government Services. We have invited them positively to come and look at our system to check our checks and balances. We are quite aware of human rights as well as some other dangers that can occur from unauthorized people getting into our system. We have also had a very complete audit by the Provincial Auditor of our systems with some emphasis on our security systems and the amount of information that is made available to people.

I think that is the short answer, sir. I could provide you with some of our operating programs which actually show the amount of information that is made available.

Mr. Renwick: If I am picked up on the street and charged with an offence and put in Toronto Jail, what information would be considered relevant to my detention in the jail during the period up to and including the time I am sentenced, if convicted?

Mr. Algar: Largely the amount of information you yourself give. The information you give when you arrive is keyed into the system. If you describe yourself as Mr. Renwick in the right way, then that information goes in. We do check to see if you have been with us before, but we only show some gross information, as I say, like health information. It is very important that we know, for example—

Mr. Renwick: If I have a record, do you show

the record in there? My recollection is that the record is shown.

Mr. Algar: Yes, it is. Part of it is shown.

Mr. Renwick: Why should that be shown?

Mr. Algar: I am not sure that I can answer that question completely at this moment. My concern is largely with the operation of the system throughout, and the operation of the institutions, but certainly one would need to know.

Mr. Renwick: Perhaps, if you have such a thing as leisure, you might let me know exactly what the process is by which information on an individual is obtained. That is, from the time he arrives at a detention centre, what information is put into the system and what the reasons are, whether it is consistent for each person, and how any information not derived from the individual person is obtained, either from the police or from past records, and what you show on that screen.

I was very interested in it because I know nothing about the information retrieval system, but I was very anxious that the prisoner's rights be protected as to the amount of information. Then I would like to know what happens to it.

For example, if the person is discharged, what do you retain as information on a permanent basis?

Mr. Algar: My deputy minister has just agreed that I can offer you a demonstration of the entire system if you would come to see us. We could probably fit it in even in this building, but it would be much easier if you could come to Scarborough. We would be very happy to demonstrate the entire system.

Mr. Renwick: Mr. Spensieri, would you be interested in going?

Mr. Spensieri: Yes.

Mr. Algar: That would answer your questions absolutely on line, as it were.

Mr. Renwick: At least it would help me to understand it and perhaps satisfy my concern about it.

Hon. Mr. Leluk: I might just—

Mr. Renwick: Part of the immense privacy which we all enjoyed in the immunity from information gathering was that the system was so lousy you could never find any information about anybody, but now that day has all gone by. Anyone could get a clearance from the chief of police that he had no record because they could never find a record. I think that has all disappeared.

Hon. Mr. Leluk: In addition to what Mr. Algar has said, and I know Mr. Spensieri raised the Hudson case in Sarnia, for purposes of classification we need to get as much information as we can to aid us in our classification.

Mr. Renwick: I can well understand, at the point where you have to make some decisions, that you would have a break in the different needs for different purposes. I would be interested in knowing that.

Mr. Algar: If I may: as I tried to explain to Mr. Renwick, we do have those systems in place. If I can give you a demonstration, you can see where the breaks occur.

Hon. Mr. Leluk: Mr. Chairman, I am sorry, I keep interrupting. As a point of interest, Mr. Renwick asked about the trial date for the correctional officers from the Metropolitan Toronto East Detention Centre. I have just been handed a note that, according to the Ministry of the Attorney General, the trial is to begin on April 2 of next year.

Mr. Renwick: That is convenient; April 2, 1984. I wonder what those fellows are living on these days.

Hon. Mr. Leluk: That is the information we have. I just thought I would pass that along.

Mr. Renwick: The incident occurred in December 1982.

Hon. Mr. Leluk: And we do not set those dates.

Mr. Renwick: No. That is 15 or 16 months. If I ask the Attorney General, of course, it will be because the counsel for the defence asked for that date; it will never have anything to do with the system.

Mr. MacQuarrie: The ministry's main data bank I would assume is at the Leaside computer centre. Is that centre solely operated by the ministry for the ministry?

Mr. Algar: We are no longer using the Leaside centre because that was largely associated with the Ministry of Health and that has, of course, been moved mostly to Kingston. We have just converted to the Downsview centre.

Mr. MacQuarrie: The Downsview centre; I see in the activity report you refer to the Leaside centre.

Mr. Algar: It was at the time of writing. As you may be aware, the Ministry of Health moved many of its operations to Kingston quite recently and that data centre, which was very convenient to us because of its distance, was moved to Kingston.

Mr. MacQuarrie: You are operating in Downsview. Are you operating in conjunction with any other ministries?

Mr. Algar: The government runs two basically computer utilities other than the one associated with the Ministry of Health. Both of them manage data for many ministries. I could not give you specific answers as to which other ones.

Mr. MacQuarrie: I am looking at it more from the point of view of security of your data.

Mr. Algar: We are very much aware of the need for security of our data. I can assure you we take every step possible to ensure it remains secure. It is one of our great preoccupations.

Mr. MacQuarrie: At the present time, are all your institutions connected with that centre by remote terminals?

Mr. Algar: No. A number of our centres are directly connected with our main office in Scarborough, but do not have direct links into the main frame computer.

Mr. MacQuarrie: From your remote terminals you go to Scarborough and then to the main frame?

Mr. Algar: Yes, at this time.

Mr. MacQuarrie: I was interested to notice an increased use of the minicomputers in various locations. Are they linked with your Scarborough centre as well or are they simply for use by the individual facility?

Mr. Algar: We are growing. At this moment three centres are linked to Scarborough, the three Toronto institutions: the Toronto Jail, the Metropolitan Toronto East Detention Centre and the Metropolitan Toronto West Detention Centre. We are continuing to build links but we have only three on line at this moment.

Mr. MacQuarrie: I see you propose another three.

Mr. Algar: Yes, we do intend to continue.

Mr. MacQuarrie: Are you using these minis in connection with the operation of the individual centre where they contain word processing facilities and that sort of thing, as well as the computer facility?

Mr. Algar: Minicomputers are lodged 90 per cent on site by the institutions themselves, but about 10 per cent of the data is eventually transferred to the main frame.

Mr. Renwick: Is there any way of breaking out more accurately the 16- and 17-year-olds statistical information? Does that come under

this vote? In the statistical information at the back of your report, you do indicate some information about numbers and percentages of 16- and 17-year-olds, but there is no breakdown of the numbers at present in your system and the nature of the offences which resulted in their convictions.

Mr. Algar: Mr. Renwick, it would be entirely possible to give you that information. The information we produce in our annual reports is somewhat summary, but we do have detailed information.

Mr. Renwick: The minister will recall a response to my colleague, Richard Johnston, in March about this question of the makeup of the population of 16- and 17-year-olds, and he referred at that time to the approximately 700 that were in the system. Is it possible to give us whatever other analyses of that group you have in the ministry so we can get some sense of the nature of the offences and the sentences which have been imposed on those persons, both those who are under detention and those who are in various other alternative forms of care?

Hon. Mr. Leluk: Yes, I understand. We can give you that type of breakdown.

12:30 p.m.

Mr. Renwick: I would appreciate having it. Thank you.

Hon. Mr. Leluk: We will get it to you.

Item 2 agreed to.

On item 3, supply and office services:

Mr. Spensieri: Mr. Chairman, just a question on the facilities and design planning people. Are any of the internal studies that are relied upon by you, sir, and your staff for proposals for construction of further centres—is there anything other than studies prepared specifically for you and generally available to interested groups and individuals in the community, or is this particular facilities design planning group strictly an internal group that reports to you? Do you own it?

Hon. Mr. Leluk: Yes, it is an internal group, Mr. Spensieri, that reports to the ministry.

Mr. Spensieri: Would any of its findings and reports be otherwise available to anyone else?

Hon. Mr. Leluk: I believe that information would be shared with the Ministry of Government Services, but I do not think it would be made available for outside purposes.

Mr. Spensieri: The reason I raise it, sir, is because of a response which you gave in the

House to Mr. Renwick, when he asked if you were satisfied that there was a need for what you were doing. You said, "Well, I rely on my staff and I am happy with the report." Is there any other formal or—

Hon. Mr. Leluk: If I recall that question correctly, I think Mr. Renwick raised it about whether an outside committee should be set up to decide on whether there was a need for a maximum security facility in the Toronto area, and I stand to be corrected. My answer was that I have adequate senior staff and personnel to guide me and direct me in that regard.

Mr. Spensieri: That is really not the point. Is there any formal or informal avenue of communication between your design and planning people and interested groups, such as opposition critics, for the sake of argument?

Hon. Mr. Leluk: The minister does have an advisory council on the offender. We have a group of people from the community, representative of not only private agencies, but professional people, educators, doctors and others, who meet on a fairly regular basis and who advise me. So certainly, we do have an avenue for input from the community. This, in turn could be passed on to our planning group, and is. We have senior staff meetings on a fairly regular basis in which this minister takes part regularly.

Mr. Renwick: The question that I was concerned with relates again to the statistical information, the continuous increase in the number of people who are under—if I could put it politely—the jurisdiction of the ministry; in other words, the number of citizens on whom the ministry has some kind of a string is just increasing continuously.

There is an aberration at the present time on unpaid fines because of the information retrieval system. In theory, that should level off at some point so that you do not have that large increase. However, my concern was whether or not you had the basic information from all sources on which you decided that, yes, it was absolutely essential in the Metropolitan Toronto area that there be another significant detention centre, and that was my worry. I cannot alter the world, but I still think that the—

Hon. Mr. Leluk: Mr. Renwick, whether I am the minister of the day or there is another minister, we have to rely on the guidance of staff and on our projections. We projected figures over the next period of, say, five years. I have every confidence in my senior staff, in the

planning division and in our statisticians, and our projections have been fairly—no, very—accurate over the past several years as to the numbers we expect to see in the system over the next five-year period. We have to plan accordingly. We have the staff to do this and I have every confidence in my staff.

Mr. Renwick: I have confidence in your staff, too, but I do not think the public generally or Mr. Spensieri or I understand what the process is by which you make a decision that you are going to spend—the last estimate you gave me was \$64 million for the 500-bed institution. That is the figure I have.

I simply raise the question again. How do you arrive at that—

Hon. Mr. Leluk: Based on our projections—

Mr. Renwick: Other than by strict projection, which is a mathematical—

Hon. Mr. Leluk: It is based on our needs down the road.

Mr. Renwick:—game rather than a planning game.

Hon. Mr. Leluk: My deputy would like to respond.

Dr. Podrebarac: If I may comment in terms of the projection issue against reality, it is interesting if one goes back in time in analysing this issue. For example, if you take 1978-79 as a starting point, since 1978-79, these are actual figures. It is very clear to us that we have had a 16 per cent increase in average counts. We have had an 18 per cent increase in maximum counts and we have had a 23 per cent overall increase in sentences and remands since 1978-79.

For 1982-83, if one starts to look at the data again, we have 7,000 beds in the system. That is actual; you can count those and you can see them. Our peak count during that time period was in 1982-83 when we were 500 over operational capacity. You can count those beds.

From our point of view, we then look at what everyone has been saying to us all over the last five years: that our projections are wrong, that we are playing around with numbers, that it is guesstimating; but the reality is that is the way it has been.

Now if you take, for example, 1983-84, looking at the reality. We have system Y in 1983-84, a projection for a 5.6 per cent growth. I personally found it very rewarding with the wealth of data currently available to us and our constant search to try to get more so that we can make informed decisions about our needs. It is not easy.

When you take the history with the immediate present and try to say something about tomorrow; when it is fully recognized by all of us here that we can only handle that which we get—the system again; when I am talking about counts and these numbers, I am only talking about the cellular count. At the same time, when one looks at the growth on the other side, we have over 7,000 people in cellular accommodation. At the same time, we have well over 40,000 in the community. So you have an expansion going on there as well.

If one zeros in specifically on Metropolitan Toronto—as Mr. Spensieri pointed out, he has a bit of a bias in terms of his interest in this area—when you start looking at Metro East, Metro West and the Toronto Jail, just those three, and at the data and the counts, there is a reality with which our staff is continuing to cope well. It is imperative that we utilize all of these data, both actual and to some degree projected against continuing growth in the community, to try to make a sensible recommendation that will help us to cope with the situation.

I admit we have found the data particularly interesting in the last little while, although we have been watching the remand counts ever since January. I am impressed with the information our research people are getting to us in terms of remand counts. For the first time in a long time we are seeing a downward trend in remand counts, a very significant drop.

12:40 p.m.

I have to ask why—we are asking that question. What is it that is different? It is also a matter of concern for all the heads of corrections across the country to try to understand why. I have had only one opportunity to meet with the heads of corrections. I am advised by my colleagues that a few years ago we went to the heads of corrections and told them about this phenomenal count increase and what was happening. As you all know, it is not unique to Ontario. It is a North American, an international phenomenon. It is happening.

Many of our colleagues began to say, "It is not a problem here." I went to the last heads of corrections meeting in Edmonton, my first, and I admit that what they wanted to talk about, a couple of years after the fact, was how we were coping with overcrowding because now they seem to be having this increase as well.

We have vetted the data very carefully in terms of the actual counts, the projections and the phenomenon of the decline in remand, and we have a shortfall. We are reviewing not only

the need for cellular accommodation but also, as some of you raised in questions, the classification procedure, the data retrieval and the decisions about where certain people are put. Do you put them into cellular accommodation?

We are undertaking a detailed, extensive, careful review of whether or not we have appropriately classified and placed these people. We too, as you know—you have referred to our goals—think it is important and I am delighted to hear Mr. Renwick acknowledge the goals. We are one ministry that has a very clear directional statement. I want to draw to your attention principle number one, which I quote: "Wherever practical, correctional programs should be community based."

Even if we look at all our projections and data, that principle of operation is constantly at work on all staff. To make sure, we are trying to say, "Do you really need it?" We are asking the same questions. We are getting better and better data. It becomes that much more complex as you see the numbers doing this.

We are trying to be fair in our projections. We are monitoring them monthly. I am delighted that you might be interested in looking at our direct data retrieval system. It is not bad at all. It will get better. Again, it is designed to allow some of our onsite, in-the-field managers an excellent opportunity to make the best possible decision for the individual. I know it is a difficult problem. It is one that has preoccupied me over the last almost 10 months.

Mr. Renwick: Without splitting with you on what you have said, I was not thinking of a conference to check your mathematics. I was thinking of a conference which could have the benefit of the kinds of considerations you are giving to these matters, for example, the Quaker committee, which has contra views of the system. This does not mean you cannot learn from people who have that kind of particular and special interest in this field. The same with the John Howard Society and the others.

Whatever the explanations you were making might very well be—rather than these great international conferences, to which I do not have any objection—it may well be that you need a conference here with the voluntary organizations and interested individuals in all the fields to say: "What have we got here? Have we got a continuous demand that will mean that for all time we are going to have to increase our capacity?" Or, if I could make a dread analogy, are you running into a Hydro syndrome where with the best planning in the world—so they tell

us—you will build this 500-bed institution and then find you will have to explain to me, "Well, now is the time to demolish the Toronto Jail because we have excess capacity," which is another form of mothballing?

It is fair to say that among people concerned with these problems there is a lack of information and a lack of openness and understanding. I get worried when I read in the press—in the fashionable way that the press deals with it—that violent crime is on the increase. Then I read Anthony Doob's study about violent crime and find that the perception is quite different from the actuality.

I listened to the Solicitor General of Canada at that conference to which you very kindly invited me who said that is simply not so. If it is not that crime overall is not increasing, it is some dreadful category of crime that is on the increase.

You heard the police chiefs at the end of August talking about the problems with respect to the criminal and all of that, and yet the people who are interested in the philosophy of corrections and the need for that have a very real concern that not enough assessment is being made and there are just many too people within your care. Now you do not have anything to do with that, but you are the people who have them in your care and you have the information.

You can say in carrying out your duties that another of your goals is to develop and provide programs for the prevention of crime. There are probably others that are appropriate, but your advice to the justice system is an integral part. You are not just the tag end of it; I think you have a major role to play.

Hon. Mr. Leluk: Just on that point, Mr. Renwick, I can tell you that we have been invited to judges' sentencing seminars. This minister has attended two annual seminars with senior staff—with Mr. Duggan, Mr. Evans and his predecessor Art Daniels—to talk to them about alternatives to incarceration and to provide them with valuable statistical information about how the programs are working.

The prerogative of sentencing is that of the courts and there is no way that a minister of this cabinet would want to tell judges how they should sentence. That is their prerogative. However, we do have those lines of communication open with them.

I do meet from time to time with people from the John Howard Society. I have had all kinds of meetings with people who express to me their views in this area and I am certainly pleased to

have that kind of input as the minister of the day. We do have some lines of communication open and I just want to point that out to you.

Mr. Renwick: I realize that.

Hon. Mr. Leluk: These decisions are not made in isolation, without any kind of input from the community groups, agencies or people who might have some differing views.

Mr. Renwick: I think an actual open conference, sponsored by your ministry, of the volunteers to whom from time to time you ascribe individually and collectively a great deal of credit for the work which is being done, might very well be a better way than just your continuing communication.

Dr. Podrebarac: Can I just make one further comment, building on the point about a conference? I think it is worthy of consideration because I think the information forum is important.

Again, I think it is also fair to say that when the abolitionists were here recently, the minister attempted to attend their conference. We were advised that we should maybe appear in certain locations other than the platform for debate, and we were told that there was no place on the platform, in the public forum, for the minister to attend and enunciate clearly the mandate of the ministry.

We continue to attempt to be open and we will continue to pursue a local conference. Having come back from my first American Correctional Association meeting, I would heartily endorse more being done within, because there is no doubt at all in my mind that this is the finest correctional services system in North America.

Mr. Renwick: I can well understand why you are deputy minister if you have that attitude.

Mr. Chairman: Are there any more questions on item 3?

Mr. Renwick: I have no more.

Item 3 agreed to.

On item 4, personnel services:

12:50 p.m.

Mr. Renwick: On the affirmative action aspect, I have the 1981-82 Status of Women Crown Employees report with respect to your ministry and the information you have provided during your opening remarks. I have just one question.

In the 1981-82 report, the differential between the women's average salary and the men's average salary—in 1980-81 it was 83.6 per cent, in 1981-82, the women's average salary was 86.4

per cent, a decrease in the wage gap of 2.8 per cent. Has there been a continuing improvement or do you have that information?

I extracted that from the report on women crown employees, Correctional Services.

Hon. Mr. Leluk: I would like to ask Mr. Vic Crew, our director of personnel, to respond to that, Mr. Renwick.

Mr. Crew: My name is Mr. Crew and I am the director of personnel branch for the ministry.

The differential between the average salary of male and female employees in this ministry has continued to narrow. The latest figures we have are that the gap has now been reduced by a total of 4.5 per cent. We have gone over the comparative figures for a number of years; in March of 1975 the average salary of women was 82.3 per cent of that of men. The gap has been significantly reduced since then. Which figures were—

Mr. Renwick: I have 1980-81 and 1981-82 here.

Mr. Crew: The latest figures to date—to March 1983, March of this year—are that the salaries for women are 86.8 per cent of the average salary—

Mr. Renwick: As distinct from 86.4 per cent?

Mr. Crew: Yes, as distinct from 86.4 per cent. So there has been a further narrowing of 0.4 per cent.

Mr. Renwick: Just a minor narrowing.

Mr. Crew: Yes.

Mr. Renwick: I recognize the problems you have with a very generalized piece of information like that, but I think it is still a useful index. Would you agree with that?

Mr. Crew: We agree and we do monitor that every year. In fact one of the major reasons for the narrowing of the gap has been the significant increase in the numbers of female correctional officers and probation officers. In probation and parole hiring right now, more than 50 per cent of the new employees are female.

Mr. Renwick: The reason I asked the question is that—and the world will not come to an end with this comment—where you have had a consistent significant decrease in the gap—when I say significant, I mean two, three or four per cent over a period of time—and we suddenly come to a point in time where it is 0.4 per cent, a person such as myself immediately says, “That is one of the adverse effects of the restraint program”—that it is preventing the continuing

decrease of the adverse salary relationship between women and men.

I do not think you should answer that; I would think the minister should answer that. That is a policy question, but I think that is right.

Mr. Crew: My only comment is that we feel that the most significant factor that reduces the gap is the movement of female staff into nontraditional occupations such as correctional officer, probation officer and into more management positions.

The other aspect of that—and to which I think you are referring, Mr. Renwick—is the percentage of salary increase for predominantly female groups of employees, such as clerical and office services in relation to the increases for other groups. Where we concentrate, of course, is on the movement of women into those nontraditional areas.

Item 4 agreed to.

On item 5, information services:

Mr. Renwick: How often does that very good book of yours come out?

Hon. Mr. Leluk: Which one is that? They are all good books.

Mr. Renwick: Correctional Options.

Hon. Mr. Leluk: We have had two.

Mr. Renwick: That is what has confused me, because it always says volume so-and-so, number so-and-so.

Hon. Mr. Leluk: One every year.

Mr. Renwick: I do not think I have the latest one. I think I have 1980-81 and 1981-82.

Hon. Mr. Leluk: What stage is that at, Mr. Evans?

Mr. Evans: It is not out yet.

Mr. Renwick: I noticed it came out in the fall. I do think it is a valuable document.

Item 5 agreed to.

On item 6, analysis and planning:

Mr. Renwick: I would appreciate it if you would give us some sense of the research work being done.

Hon. Mr. Leluk: Maybe we could call Mr. Birkenmayer—

Mr. Renwick: If he would.

Hon. Mr. Leluk: Andy, would you like to come up to the front here and give Mr. Renwick and the committee an overview?

Mr. Renwick: This is where policy development takes place—out of the research and the analysis work.

Mr. Birkenmayer: My name is Mr. Birkenmayer. I am manager of research services.

Research in the Ministry of Correctional Services is a very complex issue. We do a variety of things. Of late we have taken more and more responsibility for producing statistics of the kind you see in the annual report and expanding on them. We also provide answers to the kinds of questions you ask on age, offences, things like that. These data were previously not available. We are now putting a lot of effort into making some data available.

We also engage in primary research which involves the programs the ministry runs, the staff who run these programs, as well as the various client populations. For instance, we are just finishing up a fairly major and extensive study of probation officers—what their aspirations and needs are, how they do their job. This was primarily directed at their staff training needs because there was some concern we were devising case loads with which they were not able to cope in these positions. That study is virtually finished.

We also finished off some studies on community resource centres and community service orders. We fund various academics who do theoretical work for us, such as developing a level of supervision inventory for the probation parole service, so that they can classify their clients as they come in and provide better service. We are also trying to develop models of intervention based on the best theories available in the literature and on our own thinking.

Mr. Chairman: I am sorry, I would like to draw your attention to the clock. It is one o'clock. If your question is going to be short, Mr. Renwick, maybe we could finish it. If not, we could carry it over.

Mr. Renwick: I will carry it over.

Mr. Chairman: Thank you very much.

Mr. Renwick: How much time have we left, Mr. Clerk?

Clerk of the Committee: Two hours and 35 minutes.

The committee adjourned at 1 p.m.

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SPEAKERS IN THIS ISSUE

Kolyn, A.; Chairman (Lakeshore PC)

Leluk, Hon. N. G., Minister of Correctional Services (York West PC)

MacQuarrie, R. W. (Carleton East PC)

Renwick, J. A. (Riverdale NDP)

Spensieri, M. A. (Yorkview L)

From the Ministry of Correctional Services:

Algar, M. J., Executive Director, Planning and Support Services Division

Birkenmayer, A. C., Manager, Research Services, Planning and Research,
Planning and Support Services Division

Crew, V. J., Director, Personnel Branch

Dombek, C. F., Director, Legal Services, Planning and Support Services Division

Duggan, M. J., Executive Director, Institutions Division

Evans, D. G., Executive Director, Community Programs Division

Pahapill, J., Manager, Industrial Programs/Energy, Institutions Division

Podrebarac, Dr. G. R., Deputy Minister





No. J-14

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice
Estimates, Ministry of Correctional Services

Third Session, 32nd Parliament
Thursday, October 27, 1983

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, October 27, 1983

The committee met at 3:42 p.m. in room 151.

ESTIMATES, MINISTRY OF CORRECTIONAL SERVICES (concluded)

On vote 1601, ministry administration program; item 6, analysis and planning:

Mr. Chairman: I call the meeting to order. I see a quorum. When we finished off last, Dr. Birkenmayer was explaining something to Mr. Renwick. Could you please come up, Dr. Birkenmayer? We were on vote 1601, item 6, analysis and planning.

Mr. Renwick: Mr. Chairman, we have so little time left that I do not want to take very long on this. Does your work lend itself to providing members of the committee with a list of your research projects under way at the present time so that we would have some basis to look at and comment on?

Dr. Birkenmayer: I can certainly read off very quickly what we are doing right now. I have also brought a list of completed projects and reports that are available.

Mr. Renwick: I think that is the kind of thing that would be of help to us. Assuming that Mr. Spensieri, Mr. Stevenson and I are here next year, it might be helpful for us to have it.

Dr. Birkenmayer: Can I leave it with the clerk?

Mr. Renwick: That would be fine.

Dr. Birkenmayer: You also asked for some data on 16-year-olds and 17-year-olds.

Mr. Renwick: Yes.

Dr. Birkenmayer: I have that here as well.

Mr. Renwick: Thank you.

Dr. Birkenmayer: I would like to make a little point of explanation about that.

Mr. Renwick: Please do.

Dr. Birkenmayer: These data are relevant to admissions. They are separated in terms of admissions to institutions for 16-year-old and 17-year-old males, 16-year-old and 17-year-old females and then admissions to probation for both 16-year-old and 17-year-old males and females.

You asked about recidivism at one point.

Mr. Renwick: Yes.

Dr. Birkenmayer: One thing I would like to point out is that there is going to be double counting since these are term stat lists. For your interest I have worked out the actual number of people involved. In actual fact there were 3,292 16-year-old males who entered into the system in the last fiscal year and 4,506 17-year-old males.

If you add together the figures I have provided, you will end up with 3,826 16-year-old males and 5,857 17-year-old males. The discrepancy is because some people get admitted twice to institutions or several times to probation or get a probation term plus a term of incarceration.

Mr. Renwick: Yes, I would understand that.

Dr. Birkenmayer: That is why I figured out the actual number of people involved for your interest, sir.

Mr. Chairman: Thank you very much.

Mr. Renwick: I really appreciate that. I was not trying to rush you in any way. It is just that we have so little time left and we have other areas, but this kind of information is most helpful to us.

I may say as my last remark that while I appreciate receiving from the ministry the reports by Mr. Andrews, I did not understand any of it.

Dr. Birkenmayer: They are rather technical, sir.

Mr. Renwick: It is very difficult for a lay person to understand that kind of research.

Dr. Birkenmayer: One must bear in mind that Professor Andrews is an academic and academics do write—

Mr. Renwick: The same with Mr. Spensieri.

Mr. Chairman: Thank you, Dr. Birkenmayer.

Item 6 agreed to.

On item 7, audit services:

Mr. Renwick: I have no useful comment I can make on audit services.

Mr. Spensieri: Mr. Chairman, perhaps it relates more to the previous vote, but it seems that a lot of the research and analysis projects are contracted out in very substantial part. I

suppose, as Dr. Birkenmayer was saying, it is because these are extremely detailed technical areas which would require outside expertise.

Are the contracts to universities and people holding teaching positions in those universities subject to the audit requirement and do they meet ministerial guidelines? What is the percentage in the research division between research done in-house and items contracted out?

Hon. Mr. Leluk: I believe the answer is yes. Do we have the percentage?

Mr. Algar: They certainly do adhere to all the guidelines. I cannot give the answer in percentages off the top of my head. Perhaps Dr. Birkenmayer could.

Dr. Birkenmayer: Mr. Chairman, was the question how much of our research funds were used to contract out to academics?

Mr. Spensieri: Contract out, yes.

Dr. Birkenmayer: Less than five per cent, in actual fact.

Mr. Spensieri: For instance, in the minister's report of 1982, there were some 12 specific research projects which you outlined. I believe I indicated them to you yesterday. Of those, I would say the bulk are complete. Out of those 12 difficult projects for a given year period, would you say that the bulk of them were handed out under private contract?

Dr. Birkenmayer: Most of them were done in-house.

Mr. Spensieri: Thank you.

Mr. Chairman: Thank you, Dr. Birkenmayer. Item 7 agreed to.

Vote 1601 agreed to.

Mr. Chairman: At this time, you probably have a number of replies to some of the critics' questions you wanted to finish off today.

Hon. Mr. Leluk: Yes, I do. I would like to carry on with the questions that were posed by Mr. Spensieri and then get to Mr. Renwick's questions.

Mr. Renwick: Please leave us some time, will you?

Hon. Mr. Leluk: Yes, they are not going to be lengthy answers.

Mr. Renwick: Thank you.

Hon. Mr. Leluk: One question was raised in reference to the report entitled, *Crisis Behind Bars* by the Ontario Public Service Employees Union, and the position that has been taken regarding the recommendations made in that report. I might say that the OPSEU report made

a total of some 10 recommendations. I would like briefly to address each in order.

I believe the first was to clear up the backlog of inmates awaiting transfer to or treatment in more appropriate institutions. A classification review was commenced in August 1983, headed by Mr. George Tegman. This review was subsequent to my response to OPSEU in February, following receipt of their report. This review had as one of its primary objectives the study of measures to relieve the problem of backlogs referred to in this first recommendation.

The second recommendation made was to expand treatment facilities immediately for inmates suffering from all types of disorders, such as mental illness, drug abuse and alcoholism. The Ontario Correctional Institute in Brampton has expanded its capacity by some 22 beds to meet some of this need. Millbrook Correctional Centre near Peterborough has increased its capacity by 40 beds, part of which is to meet the very same need.

During the summer of 1983, the executive director, institutional programs, Mr. M. J. Duggan, went to the Guelph Correctional Centre to examine, with the superintendent there and his professional staff, means by which the capacity of the Guelph assessment and treatment unit could be expanded within the present facility. This plan is currently under review pending funding for the project.

3:50 p.m.

The third recommendation made was to commit the funding to renovate, replace or expand outmoded and overcrowded facilities. I have given you considerable information relating to the BILD capital acceleration program which addresses the issue raised in this particular item.

The fourth recommendation was to expand social services and mental health services in the community immediately. I might say that extensive use of our community mental health facilities is already taking place. The Metropolitan Toronto forensic service, which provides excellent psychiatric services on behalf of the courts, is currently heavily used.

Treatment beds in psychiatric hospitals have been established in several areas of the province. For example, in Thunder Bay beds are reserved in two separate programs for alcoholics and drug abuse treatment. These beds, four in total, are used by inmates of the Thunder Bay Correctional Centre.

The fifth recommendation was to reform our criminal justice system with respect to sentenc-

ing, remands and bail restrictions, alternatives to jail, including community service and restitution programs which must be expanded. My ministry's senior staff have been heavily involved in meetings with groups and organizations to explore the possibilities for developing even more alternatives to incarceration. We must, of course, accept those individuals who are brought to us, but the community programs division of the ministry continues to develop and expand alternatives to jail.

The sixth recommendation was to improve administrative procedures to provide correctional officers with clear and precise guidelines for job performance. We have recently instituted a new performance planning and review system within the ministry which will clearly outline the expected performance for each individual employee by this ministry.

Standing orders for each institution are in effect which further clarify for each staff member the procedures and the standards which must be met. Since the last estimates debates the executive director has established a better system for updating the standing orders which ensures that ministry directives are incorporated into each institution's standing orders as quickly and as consistently as possible.

The seventh recommendation was to improve and expand training programs for correctional officers, including education in dealing with psychiatric cases. Staff training is an area on which I place a great deal of importance. Correctional officer training is one aspect of the total program. I am proud to report that during the 1982-83 fiscal year some 4,110.5 man-days of correctional officer training took place. Beyond this and in addition to it, a further 1,938.5 man-days of training in such areas as first aid and cardiopulmonary resuscitation training took place. A number of new courses have been introduced, as well as advanced correctional officer training, a basic supervision course for noncorrectional staff and a refresher course for correctional shift supervisors.

Since February of this year a committee headed by the superintendent of the Guelph Correctional Centre, Mr. William Taylor, reviewed the training of probationary correctional officers. It is important to note that a wide range of groups were included on this committee, including members of the Ontario Public Service Employees Union. Their recommendations were to expand the basic program from three weeks to five and to include more training of the types suggested in this item.

Many other ventures have been introduced, but perhaps the most important is the establishment of the staff training advisory council which will advise the executive director, institutions division, in matters relating to institutional staff training.

The eighth recommendation was to create labour-management committees to involve correctional officers in the decisions which affect the operation of the institutions and not just in labour relations matters. Most institutions have established a local employee relations committee. These committees not only discuss matters of labour relations, but also matters pertaining to the operation of the institutions. They are a form of communication between the union and management at the institution level. In most cases the majority of items discussed fall in the category of institutional operations, rather than labour relations.

The ninth recommendation was to improve the pension program by providing for early retirement to address the problem of stress-related illnesses. As you are aware, the responsibility for pension plans for civil servants does not fall under the jurisdiction of this ministry. However, as you are also aware, there are provisions currently in effect under the Public Service Superannuation Act which provide for retirement prior to age 65, and many employees of the ministry take advantage of those provisions.

Finally, the 10th recommendation was to establish stress-reduction programs to decrease or prevent the effects of occupational stress on individual correctional officers. I might say that from April 1 to September 30 of this year a total of 404 hours of instruction has been devoted to stress training within the institutions division. This instruction has been delivered as part of other courses to a wide variety of institutional personnel, including correctional officers, nurses, training officers, institutional managers and personnel staff.

The ministry is now in the planning stages of developing stress management courses specifically. The program being considered will emphasize stress awareness techniques to a wider group of staff. It will set its sights on improvement of stress management training to those staff who, by virtue of their responsibilities, are more exposed to stressful events.

I might just say that after having received the brief, I wrote to Mr. O'Flynn on February 22 of this year pointing out to him that most correctional systems were experiencing increased pressures and stresses and that it is not something

unique to Ontario. My letter also pointed out that my ministry, and this minister in particular, disagreed with the claims of OPSEU that there is a crisis in the Ontario correctional system and that the ministry has not addressed the problems associated therewith.

Mr. Spensieri went on to ask if I would consider implementing a system for letters to members of the provincial Legislature which would ensure confidentiality, as suggested on December 3 of last year by Sheila Copps in the Legislature.

Honourable members already, I believe, have something no one else in this province has, and that is the privilege enshrined in the Ministry of Correctional Services Act to enter and inspect any correctional facility at any reasonable time. This, I believe, ensures that a member of the Legislative Assembly can satisfy his or her concerns relating to correctional facilities by personally visiting the institutions.

The opening and inspection of mail is a matter of security. I do not want to imply in any way that a member of the Legislature would do anything to breach the security of one of this ministry's institutions and I wish to emphasize I am not saying that. The question is one of availability of envelopes from various members' offices. I would ask Mr. Spensieri if it is reasonable to believe that all members of the Legislature would be in a position to ensure that the security of the envelopes bearing their letterhead, for example, is such that none could be obtained by a person with some devious intentions.

The Supreme Court of Canada, I might add, has upheld the right of prison officials to inspect inmates' mail entering or leaving an institution. This decision was concerning letters between an inmate and his lawyer. I have the specific case if you would like me to give you the particulars.

You asked a further question about what steps we are taking as a ministry to ensure the adequacy of health services in our institutions and the willingness of physicians to participate in providing such services. We have contracts with physicians and groups of physicians to provide health care services to all our inmates. We also have health care policies within our ministry to ensure the provision of these health care services.

The contracts include a monetary retainer to ensure that each institution has 24-hour coverage seven days per week. Each of our institutions has a special Ontario health insurance plan

number and the services provided by our physicians that are chargeable to OHIP are charged to OHIP by the physician. In this way we enter into a partnership with appropriate professionals from the community to meet our health care needs.

4 p.m.

For the most part, with a few exceptions or modifications, we use a similar approach to provide our psychiatric and dental services. This philosophy is designed to provide us with the flexibility required to meet potentially changing needs from time to time.

We do not have a problem in encouraging physicians to come into our institutions. In fact, doing this is part of their contracts.

Then you asked about the health care needs for women in our institutions. The health care needs of women are met under the system which I have just described. We do have special programs or policies for women who are pregnant and for those who are interested in discussions on contraception. I would just like to say that we adequately meet the health care needs of both our female and male inmates.

You also asked what programs are being developed to counteract the "spectacular" escapes that have been occurring lately. It is regrettable and unfortunate that escapes from some of our institutions do take place. I would like to point out that we have some 65,000 inmates coming through the system into the institutions. Last year, I believe the figure was 65,000. From time to time an escape may take place.

Escapes of a serious nature are fully investigated by the inspection and investigations branch of the ministry. This branch works very closely with the local police forces. A report is compiled following this investigation and the recommendations pertaining to individual incidents are acted upon locally and, where appropriate, across the ministry.

While, of course, escapes are to be deplored, nevertheless they are used as a valuable learning experience in preventing similar occurrences. A great deal of attention is given to this aspect by the director of our inspections and investigations branch, the executive director of the institutions division, the regional directors and directors of staff training and development and, of course, by the superintendents and the local training officers themselves.

I believe a question was also asked about the long-term detainees who leave behind young children. It was thought very little is done to assist the children or determine the effects of

this traumatic experience. I think your question was what are we doing about this particular situation.

The decision to sentence individuals to long-term incarceration is really something that is done outside this ministry, as you know. We are aware of the many social implications, including those concerned with family, associated with long-term incarceration and we appreciate your concern relating to dependants who are left behind, the children in particular.

The ministry awarded \$362,000 in grants this year to community agencies, most of which as part of their mandate have to work with families of incarcerated individuals. It is my view that there is an extremely valuable contribution made in this area by the volunteer groups. As a ministry, we will continue to encourage these endeavours.

Whenever possible, we attempt to place inmates in our community-based programs, such as our community resource centres, the temporary absence program and parole. By their very nature, these facilitate family involvement.

For those inmates who remain in our institutions, we allow children to visit in our long-stay correctional centres and, in a more controlled manner, in our jails and our detention centres. The temporary absence program which I mentioned earlier is often used to allow inmates to visit with their families and such a request, I might say, is usually very persuasive in nature.

In summary, let me say that we share your concerns as they relate to children of incarcerated individuals. We shall continue to do as much for them as we are able to as part of our ongoing family approach.

I would also like to remind you of our efforts in this respect in 1979 during the Year of the Child, as were outlined in an article. I do not know if either you or Mr. Renwick will recall, but there was a full page devoted to the forgotten victims. I just brought that along to show you today.

That concludes my responses to Mr. Spensieri's questions. Maybe I could now proceed to respond to questions that Mr. Renwick posed.

It was suggested that the ministry expand its public consultation in the planning processes for corrections and also expand its goal statement. Over many years, the ministry has engaged in various forms of consultation with segments of the public regarding correctional matters.

As you know, Mr. Renwick, I and my predecessors, back to the time of the Honourable Allan Grossman, have regularly sought advice

and counsel from the Minister's Advisory Council for the Treatment of the Offender.

We also consult on an informal basis with interested organizations including the Salvation Army, the John Howard Society, the Elizabeth Fry Society, etc., and with various volunteer groups and church groups on a ministry-wide basis and at the local level.

To expand upon this process in a more formal way, we have recently formed a committee of ministry staff members which is expected to produce a report for publication early next year. We plan to use this document as a means of eliciting opinions from various public groups as an integral part of our planning processes.

I will refer to Mr. Renwick's suggestions regarding our goal statement. The points about including specific references to medical services, rehabilitative programs, publication of useful statistical information and specific studies on recidivism as goal statements are quite interesting. These matters will be given serious consideration as we review and amend our goal statement as part of this expanded and more public planning process.

Mr. Renwick also asked about the status of the government's assignment of correctional responsibility for young offenders under the Young Offenders Act. As Mr. Renwick is aware, the government has stated that it intends to await the satisfactory completion of cost-sharing discussions between the provinces and the government of Canada before making a decision on the assignment of correctional responsibility for young offenders.

The Young Offenders Act is a federal act which is being forced upon the provinces, the majority of which really do not want it. It will be very costly and, so far, the federal government is offering very limited cost-sharing subsidies. Ontario estimates that the additional operating costs for treating 16-year-olds and 17-year-olds in a correctional system under the act will be almost \$60 million annually. In addition, our ministry will require some \$50 million to be spent on separate correctional facilities.

Mr. Renwick has, however, expressed a very thoughtful viewpoint on organizational placement and for this he is to be commended.

In yesterday's remarks regarding young offenders I believe Mr. Renwick made some reference to the fact that the Minister of Community and Social Services (Mr. Drea) and myself as Minister of Correctional Services were involved in some kind of heated debate and dispute regard-

ing to whom the responsibility for young offenders might fall.

Mr. Spensieri: At loggerheads.

Hon. Mr. Leluk: I just wanted to assure him and the members of the committee that we have had some discussions not only between the minister and me but also between our senior staff, and about all they have been is discussions. There is no disagreement or what have you. We have both stated our cases and we will await the decision by those who will finally make one based on the information I have just given this committee.

I believe that concludes my responses to Mr. Renwick's previously posed questions.

4:10 p.m.

Mr. Newman: What type of treatment do you give to the elderly who happen to be incarcerated? I am specifically referring, and you will recall this, to the 79-year-old man who was incarcerated because he forgot to pay a fine for a minor traffic violation and as a result was taken into your institution, kept there for a period of time, became quite sick and had to be taken to a hospital. Surely a man of 79 years of age, a man living permanently in the community, deserves better treatment than he received then.

Hon. Mr. Leluk: I know the case the honourable member refers to, because he was kind enough to discuss it with me in the House. It should be pointed out that we were not responsible for his being placed in our custody. When the police arrive with warrants of committal, we have to accept those people in our institutions, and when we get them we try to do the best with them for the time they are placed in our care.

You are referring to Mr. Abie Cohen, 79 years old, who was admitted to Windsor Jail because of this unpaid \$14 traffic ticket from some three and a half years ago. A spokesman for the Windsor police department has said that the police have no choice but to put a person in jail if he or she cannot or will not pay a fine for an outstanding committal warrant.

Mr. Cohen, I understand, had some \$600 in his possession, but on a matter of principle refused to pay the fine, against the wishes of his family, and he elected to serve the sentence. Mr. Cohen was admitted to the jail on Saturday, October 15, and was released on Monday, October 17, when his brother paid the balance of his fine, the other portion being satisfied because of Mr. Cohen's incarceration.

The newspaper article states that Mr. Cohen

spent half the night suffering on a padded cement slab in his cell. I have been advised that this is incorrect in that Mr. Cohen was provided with a conventional bed and mattress in the medical segregation area of the jail. Efforts by the jail to obtain kosher food were unsuccessful, but had Mr. Cohen remained in jail, kosher food would have been obtained for him.

It is one of those situations, as I say, where we have to accept people when they are brought to the jail. The problem really stems from the fact that he was in violation of the law.

Mr. Newman: I accept what you say, but surely a 79-year-old citizen should not be incarcerated for \$14; there should be some other way of accommodating him. I know his children would have been more than glad to pay the \$14. As you said, he had on him the money that could have paid the fine, but as a matter of principle he absolutely refused to.

There have to be some changes in the legislation in order to accommodate a thing like that. Put yourself in his position: 79 years old—

Hon. Mr. Leluk: Mr. Newman, I understand what you are saying, but again, the gentleman was in violation of the law; the police brought him to the jail, and we had to take him in. I know that our staff probably did the best they could to treat him, taking into consideration his age and the circumstances. Our staff does an excellent job, but we only have that type of facility, and we are not responsible for his having been placed in our care. I just want to point that out to you.

Mr. Newman: You do not have a fund in there that you could draw upon to pay off an individual's financial responsibilities and then collect from him or the family later?

Mr. Renwick: Even in this time of restraint.

Hon. Mr. Leluk: Mr. Newman, it has just been brought to my attention, and I have to agree, that it was really the individual's choice in this matter. It was a freedom of choice. He chose not to pay a fine that was imposed on him by the courts; he chose to go and serve his time in an institutional setting, and that is really not—

Mr. Newman: Nobody checked whether he received the ticket for the fine in the first place. He might not have received it.

Mr. Renwick: Mr. Newman, is that the same Mr. Cohen whom we all know?

Mr. Newman: No, not at all. He is a very respectable gentleman in the community. There is no criticism concerning his behaviour in the

past, and it just strikes me as odd that you could come along and incarcerate a fellow for \$14 in spite of the fact that maybe by choice he did not want to pay the \$14.

Hon. Mr. Leluk: But the penalty is not one that this ministry establishes.

Mr. Newman: I accept that.

Hon. Mr. Leluk: We are merely the custodians; we are merely the people who are charged with the responsibility to house and look after these people who are sent to our care. I do not know what more I can say.

Mr. Newman: Can you not make some recommendation to one of your colleagues so that such a thing would not happen with an individual that age?

Hon. Mr. Leluk: In fairness, he did have a choice, did he not, Mr. Newman?

Mr. Chairman: Excuse me. I should not be interrupting, but are you implying something like community service for a number of hours instead of being in jail, Mr. Newman?

Mr. Newman: No, I mean a financial help program in the jail itself for a petty little thing like this. I know the man was stubborn and everything of that sort.

Mr. Chairman: But the point is, if he had \$600 on him, how do you justify paying his fine?

Mr. Newman: I do not say you have to pay his fine; it could be someone else. More than likely that man contributes thousands of dollars to the community to different charitable organizations. I personally know the man and I know he is very generous. But he happened to come upon a stubborn streak at that time and he preferred to make a martyr of himself.

Hon. Mr. Leluk: I am certainly not sitting in judgement on Mr. Cohen or his reasons for not paying the fine. I am just saying that our ministry is charged with a certain mandate, and when police arrive with proper warrants of committal we have to take the people in. We have no choice in that matter.

Mr. Newman: I accept your comments.

On vote 1602, institutional program; item 1, program administration:

Mr. Renwick: I just have three very brief comments on this and I may have a couple of supplementary ones after Mr. Spensieri is finished.

On the whole, I am more than satisfied with the kind of response I get when I have occasion to write to you or to anyone in your ministry. As you probably know, I generally write to the

minister, or if I write to a member of the ministry staff I try to remember to send a copy to the minister so he knows that I am in communication; and I do appreciate that.

I have three specific things. First, would you give consideration to extending the right to vote to persons who are under your institutional care? Semantically one could make a distinction between those who are on remand and those who have been sentenced, but it may well be that, with care and thought and in consultation with the chief election officer, it would be possible to work out a method by which at election time the votes could take place. I hope you are not going to tell me they already vote.

Hon. Mr. Leluk: No, not the ones who are at present in the system.

Mr. Renwick: That is my first point. Second, I would appreciate very much getting a copy of that comprehensive statement on human rights if that is possible. Perhaps other members of the committee might be interested in it.

4:20 p.m.

The third matter is specifically where we now are in the concerns—not all of the concerns, but two of the concerns—that I had with respect to the Don jail, when I visited it some six months ago. It was one of the reasons why I proposed a change in the roles of the ministry.

The first point is simply the question of protective custody and psychiatric and medical care at the Don jail. You may recall, sir, and these are figures which the superintendent and his deputy were kind enough to give us during our visit, that on the medical floor, 22 persons were undergoing medical observation, with beds only for 18, and the four extra people slept on the floor. We made some further comments in connection with that.

In the protective custody corridor there were 18 cells, 36 normal bunks and 39 prisoners. In the psychiatric care ward there were 18 cells, 36 bunks and 50 prisoners. Those were the specific areas that we highlighted with respect to the accommodation question, but the overall question still remains. About 8:20 that evening, there were 520 prisoners in the Don jail which, even at the ministry's expanded designated capacity, should hold only 414. According to figures provided to us, the degree of overcrowding on an average daily basis is somewhere in excess of 100 persons.

There were some other points in our statement. I am sure that the ministry has had the statement we made at that time. The statistical

information in the back of your annual report pretty well confirms the concern. We made a number of other points, but I am not going to read the whole of the statement. The minister knows that I think it is a fairly accurate statement of what transpired when we made the visit. Where are we now at the Don?

Hon. Mr. Leluk: First, I recall your visit there. I believe you were accompanied by your colleague, Mr. Johnston.

Mr. Renwick: That is right, yes. We did make a statement. I assumed that at some point it found its way up to—I understand Mr. De Grandis had one of them and I am sure others did too.

Hon. Mr. Leluk: First, I believe you mentioned 520 people in the jail at the time. Again I want to emphasize—

Mr. Renwick: There is the list.

Hon. Mr. Leluk: —that, as you are well aware, we have had an overcrowding situation, in the Toronto area in particular. Last year, we were experiencing as many as say 400 inmates over the operational capacity.

This is despite our double bunking and even, in some cases, triple bunking. When we have people brought to the institutions with proper warrants of committal we have to take them in, as you are aware. That is even though we may have to double bunk and even triple bunk in some cases, as we have had to do in the Toronto area.

We have taken steps, and over the last two days I have been speaking about the creation of needed bed spaces in the Metro Toronto area, having brought on stream about another 150 at the Mimico Correctional Centre, after upgrading the security there. We increased our bed spaces in the Hamilton-Wentworth Detention Centre by opening up the fifth floor. There were 60 beds created there.

Mr. Renwick: Would you mind if I just interrupt? My particular concern about the Don jail is not only because it is right in my area. What distinguishes the Don from the others, by and large, is that it is a transit jail because of remands and people coming back after they have been sentenced in court and so on. I understand that, but that is a very special situation because of its proximity to some of the major areas of the provincial court system.

Without getting into the way you are dealing with the whole problem, is there not some way that problem can be relieved in that jail? The great bulk of that jail population is on remand,

or has been in the courts. I am not expecting some magic definitive answer now. I just want you to know that is still a matter of real concern to me and I hope to get back to the Don jail—as a member and not as a client.

Hon. Mr. Leluk: We know you are careful. Maybe Mr. Duggan could point out what discussions have been taking place. He has just advised me there have been some discussions.

Mr. Duggan: We have, during the last number of months, been discussing with a group of Toronto area superintendents, including Mr. De Grandis and the regional director for the central region, Mr. Main, a number of alternatives that address the issue of overcrowding, particularly in the Toronto area which includes the Toronto Jail. As recently as yesterday and today, the deputy minister and I have been involved in a number of discussions with the regional directors concerning a number of recommendations we are considering that we hope will be able to effectively deal with some of those issues you refer to regarding the Toronto Jail, the Metropolitan Toronto West Detention Centre, and the Metropolitan Toronto East Detention Centre.

As yet, those issues are still somewhat in the embryo stage, but they do address especially the problems related to overcrowding.

Mr. Renwick: I am glad to hear that. May I make this comment? When the minister was beleaguered by the questions Mr. Spensieri and I put to him, he explained he simply has to accept everybody who comes his way. He cannot tell the judges anything.

I think the judges have to be told that we cannot have a remand facility in Metropolitan Toronto which is always overcrowded at that level. They can turn around and say to you, "Well, that is your problem, minister." That is their privilege. But at least it has to be—

Hon. Mr. Leluk: Surely you are not suggesting that a minister of the crown should tell the judges on the bench how they should sentence those who appear before them.

Mr. Renwick: Certainly not. I would not dream of saying that. You could tell the Attorney General (Mr. McMurtry) that you have a serious problem in your main transit jail. Whether you expand the facility or not, the sheer convenience of the transit system there has to be looked at because of the overcrowding. I do not want to belabour the point. I just wanted to express my continuing concern. It is distinguishable from the other places because—there

is a degree of transit in all of them—that is a downtown one.

Could I raise one other area that would be of help to me and also relates to the question? We were told that all prisoners whose sexual orientation is stated to be homosexual were housed in a particular corridor there and that inmates or prisoners from Metro east and Metro west detention centres with stated homosexual preferences were transferred to the Don and placed in this particular corridor. That is one aspect of the question.

Peter Maloney, a lawyer in Toronto, well-known in the gay community, sent me a copy of a letter which he wrote to your deputy about his experience when he was in the Court of Appeal about the Millbrook Correctional Centre. Do you recall that? I would like to ask whether a reply was ever sent to him. His point is quite simple. You can give me a reply in due course.

4:30 p.m.

He stated that at the end of last year he was in front of the Court of Appeal. There were three judges sitting. During the course of the appeal their Lordships, that is, Mr. Justices Houlden, Cory and Grange, asked him why his client, a person with a minor criminal record, had been sent to Millbrook Correctional Centre, a maximum security facility, on his one-year sentence. Apparently, the judges in the Court of Appeal asked him that.

Mr. Maloney stated in his letter: "While reluctant to speculate, I advised their Lordships that approximately 80 per cent of my clients are gay"—he is one of the activists in the gay community and a lawyer—"and even those with minor records and short sentences consistently seem to end up in the maximum security reformatory at Millbrook. I suggested to them"—that is, to the Court of Appeal judges—"that perhaps the ministry had developed a policy of sending gay-identified offenders to Millbrook."

He goes on in his letter to state: "My appeal was successful and when I took the Court of Appeal order reducing sentence to time served up to Millbrook on the same day to obtain his release I queried my client about the composition of the population at Millbrook. His answer was that he estimated that nearly one half the population were now gays or transsexuals." He also said, "I would appreciate an opportunity to discuss this issue with you and perhaps stimulate a review of this apparent policy within your ministry."

You see it is quite a restrained letter. He is simply commenting on what—

Hon. Mr. Leluk: Can you tell me the date of that letter?

Mr. Renwick: December 31, 1982.

I do not know what your policy is but I assume it is a matter you have to deal with and have a policy on. I would appreciate any comment you care to make about that policy. You can give it to me now or by reply later.

Hon. Mr. Leluk: Some of our inmates, Mr. Renwick, who are homosexual, as you mentioned, are placed in a separate area apart from the general population. That is done for a number of reasons. Some of them cause certain disruptions within the general population. Some of them require protection from inmates within the general population for reasons that are very obvious.

Mr. Renwick: I am aware of that.

Hon. Mr. Leluk: I believe your colleague mentioned when you were visiting the facility that—

Mr. Renwick: My colleague went off a little bit.

Hon. Mr. Leluk: I think he mentioned something about a brothel—

Mr. Renwick: He mentioned a brothel. I will leave that to my colleague to raise with you.

Hon. Mr. Leluk: I will not get into the brothel then. It would not be proper.

Mr. Renwick: Particularly in the afternoon.

Hon. Mr. Leluk: I should mention as well that our inmates are not allowed in and out of their cells during the course of the day for various reasons. We do have staff who are professional in their responsibilities and are constantly looking out to see if there is any kind of contact between—

Mr. Renwick: I am not worried about the behavioural problem. I want to know what your policy is with respect to the gay community.

Hon. Mr. Leluk: We segregate them, or place them in a separate confinement area, for the reasons I have mentioned.

Mr. Renwick: Is Mr. Maloney correct that Millbrook is an institution to which a number of members of the gay community are directed? Have you a specific policy which says that Mr. Maloney's concern is substantially correct? Is Millbrook a maximum security centre? It just seems a little bit odd.

Mr. Maloney also refers to the relative isolation of Millbrook in relation to the communities from which these offenders come.

Hon. Mr. Leluk: About half of our inmate population at Millbrook are protective custody inmates, but not all of the protective custody inmates are necessarily homosexual. It is a maximum security facility, and they are sent there for protective custody.

Mr. Renwick: I always thought that maximum security meant something other than protective custody for members of the gay community. Perhaps the best way—I had thought that perhaps this letter had been replied to. If it has not been, I think Mr. Maloney's letter deserves a reply, and I would appreciate that.

Hon. Mr. Leluk: I will follow that up.

Mr. Renwick: I would hope that you would develop an actual policy on the issue. I am not suggesting it is not a problem. I am saying it is a problem which deserves a policy and a review as to whether or not that is the best solution, as a matter of policy, to that problem.

Hon. Mr. Leluk: I would think our staff is doing that now, making those kinds of decisions as to where they should be—

Mr. Renwick: I am asking you to review it, in the sense that it is not a comprehensible policy to me.

Hon. Mr. Leluk: I will look into the matter. We will have some discussions after that to see if it is necessary.

I would like to respond to the second issue you raised, regarding the voting privileges for those incarcerated in the institutions, possibly with the exclusion of those on remand. We have had discussions with the chief election officer and we understand there are some changes being contemplated in the Election Act.

The question of remand prisoners and their right to vote, as well as issues pertaining to matters affecting the federal electoral offices, have been discussed with our legal adviser, Mr. Dombek, who is here today. I would like to ask him to respond to that particular issue.

Mr. Renwick: It seems to me it is one of those minor add-ons that has something to do with the dignity of the individual, and I think we are long past the time where a person need be deprived, if it is possible to work it out, of his right to vote.

Hon. Mr. Leluk: Carl, would you like to respond?

Mr. Dombek: Yes. Mr. Renwick, you raise a very fascinating question because, as members are probably aware, under section 3 of the Charter of Rights and Freedoms, every citizen of Canada has a right to vote in an election, and

also to stand as a member for the Legislative Assembly or for the House of Commons.

There have been a couple of recent cases—one from Saskatchewan, by the name of Maltby. This issue was raised by some sentenced inmates. It was part of a number of issues, and they based their argument on the Charter of Rights. The judge in that case said that they do have a right to vote under the charter, that the provincial election act should be changed, and that the elections officials should take a look at that.

Based on the fact that the inmates brought the action against the corrections department in Saskatchewan, the action was dismissed against them, because they had no status.

The other case of some interest was about someone called Reynolds, from British Columbia. In British Columbia, the disenfranchisement of citizens went as far as anyone who was on probation for an indictable offence. During the last provincial election, Mr. Reynolds challenged that, and he was also successful.

As a result, I have had discussions with both the federal officials who are responsible for the election act and also with our provincial officials. They have advised me that they are very aware of this problem. As a matter of fact they are looking at the situation in Quebec, where inmates have been voting in referenda and things along that line. They are trying to arrive at a means by which inmates would be permitted to vote. I have been advised by provincial officials that some changes are contemplated to the provincial election act and that this would be a topic they would want to bring forward to cabinet.

4:40 p.m.

It can lead to some very interesting situations. As you may be aware, during the last municipal election, which was in November, right after the proclamation of the Charter of Rights, Mr. Saul Betesh, who was convicted of murdering a young boy in Toronto and was incarcerated in Kingston, demanded the right at the time to run for mayor or alderman or something along that line of the city of Kingston. He later withdrew that demand.

What we have done is this. Under the direction of Mr. Duggan and our former deputy minister, Mr. Campbell, Mr. Sidney Shoom, the regional director of the eastern region, and myself and a number of superintendents got together in order to develop some administrative procedures to assist the elections people to come to some sort of good decision that they could make.

We are suggesting that if they were to look at this seriously, they might want to consider permitting voting by proxy or voting by mail or something along that line. As you are probably aware, having toured some of our institutions, the facilities to set up election booths right in the institution may not be available. Of course, the other difficulty is voting in one's own riding. With someone from Toronto, who may be incarcerated in, say, Millbrook Correctional Centre, where would that individual vote?

The interesting thing is residence. Where does one establish residence? All these things are being looked at, from what I understand, by the elections people and we hope there will be some changes in the future. Certainly the Charter of Rights will make an impact on that issue.

Mr. Renwick: They seem to have solved it in connection with the armed forces. I think it has to be looked at from the positive point of view that it is a challenge to be overcome, not a question of where the obstacles can overcome the solution.

Mr. Dombek: That is right. I agree with you. When I was a student attending law school at Dalhousie, I was able to vote in provincial elections by proxy. I was living in Halifax at the time. So certainly something along that line could be done.

Mr. Renwick: I am glad to hear that something is happening. I was not aware of those cases to which you made reference, but there is a reasonable amount of time between now and the next election in Ontario. Even if you cannot solve it with the federal people in time for the federal election, and as there are changes going to be made here in the Election Act, I think it would be well worth while to pursue it and have it as soon as we could. I think it would provide a prototype for the question of whether or not it could then be extended to municipal elections and how to do that.

It seems to me that the provincial election is relatively simple here. I appreciate those comments and I will look forward to the bill, when it is introduced, having that provision in it.

Mr. Dombek: I am not promising it.

Mr. Renwick: I asked whether we could have a copy of that human rights—

Hon. Mr. Leluk: Yes, we will make that available to you.

Mr. Renwick: The last question on the Don jail is one I guess I was a little anxious to cover too much—that psychiatric corridor was very

upsetting, the time we went through there, with 18 cells, 36 bunks and 50 prisoners.

Hon. Mr. Leluk: Mr. Renwick, I would like to call on Dr. Humphries, our chief medical consultant, who is here today. I think he could respond to that.

Dr. Humphries: I am Paul Humphries, senior medical consultant to the minister. I am most appreciative of your question, Mr. Renwick. I assume you are not concerned about the psychiatric coverage per se, but rather the unit and the overcrowding within it.

Mr. Renwick: That was our principal concern. We ended up our comment with this sentence, "Even if one accepts the principle of double-bunking, this condition represents a significant and unacceptable degree of overcrowding."

Dr. Humphries: Yes. In that case I will try to respond as best I can to that. I am delighted it is not the coverage per se because that would be of much greater concern to me.

You have to appreciate that we have the unit there, but that also is the unit from which we take people to Metropolitan Toronto forensic service. We transfer people to that unit for the purpose of doing that, so that is a rather flexible number which can change very quickly, depending upon the time of day, whether the group has gone to Metfords or is on its way back. These are for the brief assessments for the courts.

Mr. Renwick: This was 8:30 at night.

Dr. Humphries: Many of them would have been back and on their way to courts the next morning. Nevertheless, we are aware of the demands for psychiatric assistance throughout the city. It is our impression that there is increased psychiatric demand throughout the whole system, and that is absolutely true of Toronto as well. I would much rather have those patients present in that unit in a more crowded position than spread elsewhere where they might not get quite such concentrated attention.

We do have a psychiatric nurse in charge of that unit. We have made a number of changes, even just in the past year, to assist in our overcrowding situation. We have a psychiatrist on a contract with us to give us coverage at Toronto Jail, Toronto East, Toronto West, Mimico, Maplehurst and, as you know, 999 Queen Street, the Queen Street Mental Health Centre, has set up a medium security unit within the city. It requires the expertise of somebody used to dealing with that kind of clientele.

We had a very good man, and the hospital expressed interest in him. He expressed interest in that position, so we seconded him to that hospital to be the director of that unit. The hospital is underwriting all his expenses, and we have used that money to provide us with the money for the contract to cover behind him. By doing this, if we have people who are really quite ill, we can move them over into that unit at the Queen Street Mental Health Centre. So, all of a sudden, these are additional beds that are available to us and we know the person in charge. We certainly do not take advantage of that, but it is a way of helping to cover our most seriously ill people.

Mr. Renwick: I do not know whether you actually saw our comment about what we thought. We ended our remarks about our impressions of the care by saying, "While these observations are subjective, we feel that these conditions represent a significant overall inadequacy of psychiatric care and assessment facilities."

What we had to say was: "We are still seriously concerned about the inadequacy of the care. A psychiatrist visits the jail only two afternoons a week and the single, full-time psychiatric nurse can do little to deal with the numbers involved. It is our concern that this indicates an ongoing backlog in the provisions of psychiatric care to the inmates of the Don jail."

We went on to speak about the instance of one prisoner who was in protective custody because of the nature of his offence. He had already been there a month. He had been sentenced to six months, with a very strong recommendation for psychiatric care. He he was inquiring of the superintendent and of us when he was likely to be moved to where he could get psychiatric care. Of course, the superintendent did not have any idea because your major facility was full at that time.

As usual, I do not have time to follow up all these things, but it looked to me as if he might very well end up serving most of his six-month sentence in protective custody segregated at the Don jail and never receive the psychiatric care the court had ordered.

Dr. Humphries: Let me assure you, Mr. Renwick, we have mechanisms to handle that kind of situation. I will explain in a minute how perhaps we can ensure that kind of situation does not happen again.

4:50 p.m.

You heard the minister, in describing our health care services, say we have contracts which allow us flexibility. We have a standard policy throughout the ministry where, if the individual is not happy with the health care he is receiving, whether it is psychiatric or otherwise, he can write to myself, to the Ombudsman's office or to the College of Physicians and Surgeons of Ontario. Whichever direction they go, we will do our best to respond.

If this individual was in for that period of time, if he was going to the Ontario Correctional Institute, which is one of our bigger backup mental health facilities within the ministry, there is a waiting list because there is a lot of demand for those kinds of beds and, as I say, the demands are increasing. He could have gone to the Guelph assessment and treatment unit, which is a psychiatrically oriented hospital with perimeter security. That is what it amounts to. If there was urgency to move him faster than that, we could make exceptions, or we could move him out to some of the local hospitals or to Penetanguishene.

In a case like that, if such a situation should come to your attention again, a simple phone call to our office could make things happen very quickly and would, Mr. Renwick. We do this fairly often because, with that size of population, there is always somebody needing something or wanting something.

That is one of the few institutions in the province where we have 24-hour nursing coverage. It is directed by a psychiatric nurse. She is the director of that particular unit, but there is nursing help working as well with her round the clock.

Mr. Renwick: I appreciate your comments.

Hon. Mr. Leluk: Dr. Humphries, are you finished?

Dr. Humphries: Yes, I am.

Hon. Mr. Leluk: I might again emphasize the earlier remarks I made in answer to Mr. Spensieri's question that we have brought another 22 beds on stream at the Ontario Correctional Institute in Brampton, which are treatment beds. At Millbrook Correctional Centre we have brought an additional 40 beds on stream there and we are looking now at the possibility of even bringing a few more beds on stream. These are treatment beds. So we are constantly examining the needs in that area and are responding to that need.

Mr. Renwick: I do not want to appear to be monopolizing this.

Mr. Chairman: Thank you, Dr. Humphries. Mr. Spensieri.

Mr. Renwick: I have a couple of others when Mr. Spensieri is finished that I would like to mention briefly.

Mr. Chairman: On the same item, Mr. Renwick?

Mr. Renwick: On the institutional program.

Mr. Chairman: Not item 1. Care, treatment and training is item 2.

Mr. Renwick: I suppose my next two items come under item 2 probably.

Mr. Chairman: We are on vote 1602.

Item 1 agreed to.

On item 2, care, treatment and training:

Mr. Spensieri: There are no other aspects that concern me in this area.

Mr. Renwick: I am not trying to be mysterious, but I am not going to name how this came about. This was a quotation about a matter at Guelph, not from an inmate.

"You may be interested in the following piece of information given to me by a friend. It appears that at a local correctional centre there is a typing pool in the OR section. Pre-sentence reports would appear to typed by inmates, by offenders. To me this raises some strong concerns about confidentiality and the desirability of information about individuals being available to others whose reliability, to say the least, has not been established. It may be worth while raising this matter with the appropriate minister."

As you can see, he has not made any blank statement, but he has a concern about the use of the facilities within your institution for the preparation of pre-sentence reports on other inmates which have a lot of information that should be treated confidentially. Again, I am not making any allegation; I am just asking you to make a note of it. If you cannot reply now, let me know about that.

Hon. Mr. Leluk: Mr. Renwick, in reply to that question, I am advised by Mr. Duggan that the pre-sentence reports are prepared by the probation and parole people and that we have no knowledge of any inmates being used to type these reports. However, we will be pleased to look into that matter.

Mr. Renwick: Would you be good enough to do that, because I would like to respond to that particular concern one way or another.

Hon. Mr. Leluk: We will look into it and get back to you.

Mr. Renwick: I have another matter. I must, of course, dissociate myself from the rhetoric in the letter. This was a letter very much concerned about the Guelph Beef Centre Inc. The writer is expressing a problem, but I am not certain he is expressing it accurately. That is not critical of the way in which he says it.

"This company fails to comply with the Workers' Compensation Board standards. "As I say, he is raising an issue, whether he is speaking about the right facility or not. "It fails to provide proper medical attention in regard to accidents in the plant as required by law."

He goes on to give the particular example and refers to this as something which should be rectified. Now that you have these various operations in place, the fish one, this beef centre and the other ones which you have obviously set up as separate legal entities and so on, it raises with me the question of whether you make an actual position, since you place them in the same position as any other employer in the province who comes under the appropriate category of the Workers' Compensation Act and there is no distinction between the way in which a person who is being paid and then pays board and so on is considered to be a worker for the purposes of the Workers' Compensation Act and whose claim is dealt with in an identical way to that of anybody else who might be injured in the work place.

Hon. Mr. Leluk: I believe that is the case. We do not make that distinction between inmates and those from the community who are employed there. Mr. Pahapill may want to add to that. He is the manager in charge of industrial programs.

Mr. Pahapill: Mr. Chairman, it is absolutely correct. All the laws and regulations apply to this company as they apply to any other company. As a matter of fact, this is the first time I have personally heard that the problem exists. If it exists, I know there is a very close working relationship with the meat packers' union. I should add that the inmates as well as the other workers belong to the same union. They have the same contract and all of the regulations apply. I would be most surprised if these kinds of problems exist. If they do exist, there is a means of dealing with them.

5 p.m.

I do not think there is much else we can add. The workers, both inmate and non-inmate workers, seem to work very well side by side, and none of these types of problems has come to my attention. I have been associated with the

program ever since its beginning back in 1974, and I do not know of any such problems. However, I shall be glad to look into it for the minister.

Mr. Renwick: I would appreciate it if you would just doublecheck the question that there is no distinction or any obstacle to a person, just because he happens to be an inmate, having the protection provided by the Workers' Compensation Board. As I say, I cannot vouch for all the details of the instance to which I make reference, but I did want to make certain there was no such distinction being made.

Mr. Pahapill: No, sir.

Mr. Renwick: You have a reasonable number of such industrial undertakings of one kind or another across the province, have you not?

Mr. Pahapill: Yes, we have.

Hon. Mr. Leluk: Mr. Pahapill can address the question. Is it three or four, John?

Mr. Pahapill: Three at the moment.

Mr. Renwick: I know it would not fall under Mr. Pahapill's jurisdiction, but you have a number of industrial work activities of one kind or another that are not hived off into these specialized areas. Are the inmates who are engaged in labour covered under the Workers' Compensation Board?

For example, if I am sent to Guelph and I am injured when I am sent out on some kind of work operation, am I covered or not?

Mr. Pahapill: Yes, Mr. Renwick. Any inmate who goes out and works for a company, either on the premises or outside, is covered by all the laws and regulations.

Mr. Renwick: Yes. I was trying to make the other distinction.

Mr. Pahapill: However, any inmate who works in an institution is covered by the Ministry of Correctional Services Act and the regulations under the act as taking part in the institutional program and has the protection under that act and its regulations.

Mr. Renwick: You have lost me; I do not understand that. Are you saying that he does not have protection under the Workers' Compensation Act?

Mr. Pahapill: An inmate working in an institution within an institutional program is covered by the Ministry of Correctional Services Act, and that act, its regulations and its institutional procedures provide a series of do's and don'ts, if I may put it that way. The Workers' Compensation Act, of course, cannot apply to

an inmate, because he is not an employee of the crown. The Workers' Compensation Act applies to work situations where there is an employer and employee relationship.

However, I believe we are getting into the legal area. I may not be the best individual to attempt to guess the proper answer in this case. Perhaps Mr. Dombek can further explain.

Hon. Mr. Leluk: Carl, would you like to add to what Mr. Pahapill has just said?

Mr. Dombek: Perhaps the best way to explain it, Mr. Renwick, is to give you some examples and tell you what is covered.

Let us say we have an inmate making licence plates at Millbrook Correctional Centre. That is a ministry program and, as such, he is not covered by WCB. However, we have a section called the compassion allowance section in the Ministry of Correctional Services Act. We use WCB to evaluate the disability and to give us an idea of what either the monthly payment or the lump sum payment would be, and we award that person a payment based on that. Those are reviewed on an annual basis, I believe, and adjusted for inflation, as WCB adjusts its settlements.

For the inmates who are working in industry, like the abattoir—

Mr. Renwick: Just before you leave that one, what if it is not a lump sum payment situation? What if it is a pensionable claim?

Mr. Dombek: The inmate has his choice, as does the ordinary citizen in that case. Some of the inmates would rather have the lump sum payments so they have some money when they go out of the institution; others want the lump sum because the monthly pension is very small. We signed one just the other day that was less than \$10 a month; so the inmate wanted the lump sum.

Mr. Renwick: I understand, yes. I was just saying that in that licence plate operation somebody could get seriously hurt; one could lose a hand. Do I take it that a person such as that would be awarded a pension equivalent to what he would have received if he had been injured in an industrial establishment covered by the schedule of the Workers' Compensation Board?

Mr. Dombek: That is correct. The procedure is that we send the claim down to WCB. They evaluate it for us and give us a report, and their doctors examine the inmate. We set up an appointment, and they will tell us what the

extent of the disability is, whether it is a 10 per cent disability or a 50 per cent disability.

They will say, "Based on what this person was doing in industry and comparing that kind of job to an industrial job"—say it was a cleaning job or something like that—"this is either a monthly pension of so much or a lump sum payment of so much."

We then go back to the inmate—and in a lot of cases he is represented by a lawyer—and we will offer him that. If he wants to take it, fine; if he does not, he can of course sue us if he feels there was some negligence and so on.

Mr. Spensieri: Is there an analogous mechanism for the rehabilitative or physiotherapy aspects?

Mr. Dombek: Yes. Compassion allowance was put into the statute in 1978, and the whole reason was coverage for any injury. One situation is if an inmate hurts himself in a program of some sort—perhaps he is playing ice hockey or something like that, as an example, and he gets hit by a puck and loses an eye or something along that line.

The second situation would be an inmate working, say, at the abattoir. He is covered by WCB, because the company has to be covered in that respect; any private industry of the three that are operating in the institution has to have the WCB coverage, and the inmate is covered in that respect.

The third situation is where an inmate gets a temporary absence and goes out and works in private industry. Say he works for General Motors. There is no problem there; he comes back to the institution at night.

The last situation would be where an inmate goes out and does community work, perhaps doing bricklaying or something like that. That inmate would be covered by our compassion allowance scheme, because again that is not a work-related program with a private industry.

Mr. Renwick: I appreciate that information, as I have never turned my thoughts to that kind of coverage. If I have any further questions, I can raise them after I have looked at the Hansard report of this meeting.

Mr. Dombek: Certainly. If you would like to put them in writing and discuss them with the minister and me, I would be happy to provide you with information.

Mr. Renwick: In this same letter he raises an interesting point on it. He says:

"As employees of the beef centre, we pay the Guelph Correctional Centre \$36 a week for

room and board and we are given no lunches to take to work, so we purchase our meals at work. We are housed in the main institution and in general are no different, as we have no more privileges than the other inmates even though we pay for these services. What justice is this?"

It is an interesting point as to whether those who pay and those who do not pay get the same—

Hon. Mr. Leluk: I am advised that they agree to that when they go into the program. It gives them an opportunity to earn wages and to have some of that money set aside for when they leave the institution. Also, it provides them with some money with which they can look after their dependants. It is something that is agreed to before they enter the program.

5:10 p.m.

Mr. Renwick: He said he would like—and again this is fairly strong language; I will leave out the part that might inflame the minister—an investigation into the Guelph Beef Centre with regard to their first aid requirements and the lack of first aid facilities.

Hon. Mr. Leluk: John, would you like to respond about the first aid facilities?

Mr. Dombek: Yes. I am trying to think of what I recall from the facility. I know, of course, that the tools of the trade are sharp, and I suppose accidents occur there as in any other abattoir or operation of that type. During my visits to that plant, it has not come to my attention that there is a problem in that area.

Mr. Renwick: It may be worth checking on the adequacy of the first aid facilities at that plant in particular. Again, they may be quite adequate.

Hon. Mr. Leluk: My understanding is that it would be no different from any other work place. It would be subject to health and safety regulations.

Mr. Renwick: I would just like a little confirmation of that matter.

Hon. Mr. Leluk: Sure. We will check on that.

Mr. Pahapill: I would add for the record that each of our workshops—and we discussed the workers' compensation matter—is covered by the Occupational Health and Safety Act. Of course, health facilities are inspected by the appropriate officials at regular intervals. Again, there is no distinction, no relaxation of rules or regulations in this respect; so, of course, with the abattoir.

Mr. Renwick: On that matter I am sure there are a thousand other questions, but I will have to await my visits to the other institutions.

Mr. Chairman: Thank you, sir. If you are finished on vote 1602, item 2, we could carry on.

Item 2 agreed to.

On item 3, institutional program support services:

Mr. Spensieri: In our earlier discussions I was concerned that the classification mechanism, at least in the initial stages when accommodation of various inmates takes place, might lead to situations of potential danger to inmates. Some of the wars that have occurred can be directly linked to improper allocation of accommodation through the classification route.

In place to the research piece we have here, what steps are being taken now and are in place now to improve accommodation allocation, especially from the point of view of liability exposure to the ministry and to the insurers for the ministry?

Hon. Mr. Leluk: I mentioned yesterday, and again I want to stress, that we had about 65,000 people come through the institutions last year. We do have a classification system in place, but in those cases where we have had one or two incidents, we have looked into them. We review them and act accordingly.

Mr. Spensieri: Has there been a total implementation of the research piece on the inmate classification process and the placement? At what stage of implementation is that?

Hon. Mr. Leluk: I am advised that we are currently reviewing the classification system and that we do intend to have some changes implemented by December.

Item 3 agreed to.

On item 4, institutional staff training:

Mr. Renwick: I have no questions to ask. I listened carefully to what the minister had to say in his opening statement about the improvements being made in staff training. Because it is one of the main matters raised from time to time with us by members of the Canadian Union of Public Employees who are correctional officers in his institutions, I am certain he is aware of the comparisons between the training program here and the training programs in effect in Alberta and Saskatchewan—I think those were the examples given to us—which are considered to be much more advanced.

I know the ministry is making improvements, and all I am going to do is to withhold any

comments until the next occasion. Perhaps we can spend a little bit more time on it then. It seemed to me, from the discussions I have had either with correctional officers as individuals or with the union representatives, that one of their major sources of concern was the adequacy of the intake of correctional officers into the system and the way the security of those officers was affected by the inadequacy of the probationary and other pretraining requirements of your ministry.

I am going to leave that for now and be prepared to deal with it next time if I have any problems.

Item 4 agreed to.

Vote 1602 agreed to.

On vote 1603, community program; item 1, program administration:

Mr. Renwick: Maybe it is just an oversight, but I cannot find the population of the community resource centres from year to year on a comparative basis, the statistical information on peaks and bottoms and an average of it, whether they have all been in operation throughout the whole of the year and that kind of information. There is some information, but not the same kind of statistical information that there is for the institutions as such.

Is it possible to give me the number of centres in operation for, say, the past three or four years? Were they in operation all year? What was the total population, the peak population, the average population and so on?

I am not suggesting we need each individual one now. If you could give me the aggregate figures now, then at some point you could provide me with a sheet on each of the resource centres.

Hon. Mr. Leluk: I might just respond before I ask Mr. Evans to add to what I have to say. We currently have about 32 community resource centres in place across the province, with a population of 498 residents, I am told. Maybe Mr. Evans could add to that.

Mr. Evans: There are about 32 community resource centres. That includes a number of what we call community residential agreements on which there are some temporary absence people placed in other residences that are not directly ours, such as St. Leonard's and Elizabeth Fry. Roughly 490 to 500 is the average in the community resource centres on a given day, for a total over the year of around 3,000, in

rough figures. We would be glad to provide you with a further breakdown.

5:20 p.m.

Mr. Renwick: And what the capacity is of the average one and the extent to which they are used, the maximum use and so on.

Mr. Evans: The average capacity is around 12 beds.

Mr. Renwick: I do not know whether my figures are right, and this is a little bit of ancient information. What prompted me to ask the up-to-date question was that, as far as I could figure it out, the average daily population in all provincial institutions increased in 1980-81 over 1979-80 but the community resource centre population dropped. I am not asking you to confirm that; that is ancient history now. It is a major alternative program to incarceration, and I want to make certain that we are moving on; that the impetus is there to move people out of incarceration if they can adapt and survive in that area.

Could you give us, to the best of your ability—again in writing, if you have not got it immediately—the per diem costs in these institutions and in the community resource centres? There may have been another more appropriate vote, but you must have a per diem cost for community resource centres, depending on geographical location around the province.

Hon. Mr. Leluk: For the fiscal year from April 1, 1982, to March 31, 1983, the average cost per day in the CRCs was \$30 per resident. The institutions' costs are running us around, I believe, \$67 on average per inmate.

Mr. Renwick: Something more than double then.

Hon. Mr. Leluk: It is more than double, yes.

Mr. Renwick: That kind of information may be scattered amongst the papers, although I do not think I have seen it in the report, but it might be helpful next year in your statistical addendum to let us have some comparative information on the CRCs.

The other question is, was the flare-up in the High Park area, over the group home that was established there, an isolated incident? The other day I mentioned the Glen Thompson House in my riding to say that not only did nobody complain to me but also I did not even know it was being opened until I had the one complaint.

Hon. Mr. Leluk: It should be pointed out that the group home that is being referred to in the

High Park area is really not one of ours. It is one that is being operated by the John Howard Society of Metropolitan Toronto for the Ministry of Community and Social Services.

Mr. Renwick: The reason I ask is that one of their newsletters refers in glowing terms to the Glen Thompson House.

Mr. Evans: They operate the Glen Thompson House for us. They also operate the Frank Drea House, which is the High Park one, for the Ministry of Community and Social Services. As you already noted yesterday, we have not had the same kind of public outcry as they had in High Park.

Mr. Renwick: In any event, at the height of the controversy, the John Howard Society newsletter invited them all out to Riverdale to examine the Glen Thompson House. I was delighted that they declined the invitation; it might have caused me some considerable problem.

I am not criticizing the people for raising the issue, but was that a relatively isolated problem? You are not having location problems, are you?

Hon. Mr. Leluk: I do not believe that we in this ministry have experienced similar problems, but I stand to be corrected. Don, is that the case?

Mr. Evans: We have not had anywhere near that degree of difficulty, partly because we spend a considerable amount of time on the site selection and making sure the community groups want us, because these programs will not work if there is not a reasonable amount of acceptance. Sometimes we cannot move quite as fast as we might like to move in establishing one, but obviously paving the way and getting community support has paid off for us in the long run.

Mr. Gillies: The member should have been invited; that is government policy.

Mr. Renwick: Well, one writes these letters.

I do not have further questions on that area of your work. I am very much concerned about whether the alternatives are alternatives or whether they are add-ons. I know that is the trite language in the field, whether the alternatives have become additions. I think statistical information directed to that kind of question would be quite helpful to the public generally, and certainly to us in considering next year's estimates.

Item 1 agreed to.

On item 2, probation and parole services:

Mr. Renwick: I just do not understand the probation and parole services. I know probation

officers and I know about the parole branch. All I know is I got a list of a large number of appointments, just about a year ago now I think. The Premier (Mr. Davis) announced the appointees, and I think Mr. Spensieri raised the question of the quorum, whether they were full complement boards. I had that criticism received anonymously in my office at one point.

I am not being partisan in this comment, but what is the process of gestation to produce the list of possible eligible people for appointment to the parole board? I am trying to be nonpartisan. Is there a qualification requirement of one sort or another?

Hon. Mr. Leluk: No, these names come to the attention of the parole board executive director and through my office from various people, including those who are already serving in the ministry in probation and parole and possibly from the institutions division. They come to us from individuals themselves when they write a letter to the parole board chairman asking to be considered for such an appointment. They come from politicians. They come from various areas.

Mr. Renwick: Does your ministry make an assessment or is the assessment made somewhere else? Do you have the final say or do you have any input on the question of whether so-and-so will be appointed?

Hon. Mr. Leluk: It goes through the parole board chairman. Certainly I look at the list of names and we look at the backgrounds. You mentioned qualification. Certainly people are considered in that light. There are those who have had extensive community involvement and those people are looked at very seriously. There may be others who have had very little or no community involvement. That is quite important in selecting.

Mr. Renwick: But you actually get background input?

Hon. Mr. Leluk: Yes, we have a total background dossier on each and every one who writes to us and asks to be considered.

Mr. Renwick: Do you ask such insidious questions as, "Have you ever been convicted of any offences?"

Hon. Mr. Leluk: I think the parole board chairman does interview those people who—

Mr. Renwick: The parole board chairman plays a focal role in the assessment of people?

Hon. Mr. Leluk: Yes, she does.
5:30 p.m.

Mr. Renwick: As I say, I am quite ignorant of the work of the parole branch other than the general layman's knowledge of it, so I can't ask any intelligent questions.

Item 2 agreed to.

Item 3 agreed to.

On item 4, community resource centre services:

Mr. Renwick: I expressed my concern about that question.

Mr. Spensieri: I want to pick up with the minister the question of the proposed 10 centres. Did I hear him correctly to say they would be mostly in the central region? Is that the case?

Hon. Mr. Leluk: I don't recall saying that. I did say we plan to open an additional 10 community resource centres over the next five-year period. I don't know that I stated exactly where they would be.

Mr. Spensieri: There is no indication as yet of regional breakdown?

Mr. Evans: The first one looks like it will probably be in the Sault Ste. Marie area.

Item 4 agreed to.

On item 5, community program support services:

Mr. Spensieri: On the fine option program, I am wondering if the minister has any immediate plans for stepping up the pilot project for the Metro area and what form it will take if it is introduced in the very near future in the Metro area.

Hon. Mr. Leluk: As the member knows, we have had two pilot projects in the Hamilton and Niagara areas in effect since April 1 of this year. We have been monitoring those two projects, hoping to be able to expand. I would ask Don Evans to address the specific question of the Metropolitan Toronto area.

Mr. Evans: The selection of sites is something that has to be done in conjunction with the Ministry of the Attorney General since it is basically a program under its legislation. We are in constant discussions with them about where the next series will be, but no definitive statements have been made about where the next sites will be because both Management Board of Cabinet as well as the ministry are waiting to see whether or not the present pilot projects are making an impact, about whether or not—to get back to Mr. Renwick's question—this is an add-on and not deferring people from incarceration.

Mr. Spensieri: It seems to me that as it is now constituted the fine option program does permit individuals with these quirks about paying fines, regardless of financial stability, to slip through the system. Is that a concern?

Mr. Evans: It is voluntary. That individual, for example, may have chosen not to have done the fine option and still have been in the same situation.

Hon. Mr. Leluk: But we should also point out that every attempt is made to collect that fine as well as the prior—

Mr. Spensieri: But as a policy matter, does it seem fair that a person who is financially well off and can make an immediate restitution on that basis should be permitted to avail himself of a program which involves administrative costs and does rely on the good will of—

Mr. Evans: There is no means test. It is quite possible that could happen. However, our statistics to date show that invariably it is people who are receiving some form of social assistance who avail themselves of this option.

Mr. Spensieri: Would you consider closing the loophole for wealthy individuals?

Mr. Evans: I wouldn't have the authority to do that.

Mr. Chairman: You may take that up with someone else. Shall item 5 carry?

Mr. Renwick: There is one further question. The minister will recall that when he came up with this proposal with respect to a program for drinking drivers who had been sentenced, we had correspondence about it. I am not talking about the goal of the program, the good intentions of it. I was somewhat concerned as I read reports on it that there was an element of compulsion in it which bothered me.

The particular article was one that appeared on April 2, 1983, in the Toronto Star. The headline was, "Drinking Drivers May Face Accusers." It stated: "The toughest anti drinking and driving program ever undertaken in Canada is to begin in Ontario within two weeks. Convicted drivers in the project may find themselves face to face with families who have lost a relative in accidents involving drunken drivers."

There is a reference to the program co-ordinator Mr. Kane. "Sponsored by the Ontario Ministry of Correctional Services, it will involve 15 drivers. Their families will be called in for counselling. They will be lectured by police, nurses, those who used to drink and drive and workers at the Addiction Research

Foundation. 'This will be no vacation,' said Mr. Kane"—I am not being critical of Mr. Kane; we all know that the press occasionally overemphasize points—"as he sat amid the fireplace, pool table and plants of Madeira House on Lake Shore Boulevard West, just west of Park Lawn Drive, a halfway house that will be the headquarters for the experiment.

"It is a homey atmosphere. Cat and dog meet you at the front door. Sunshine streams into the common areas. There is a library, a stereo and an impressive record collection. But the offenders, many of whom are serving 60 to 90 days at Mimico, will not find it too comfortable. They will be monitored carefully. If it works, it will be repeated throughout the province."

There are intimations here that it is a voluntary program; but there are degrees of voluntariness and, knowing the minister, there might have been a certain element of persuasion in the voluntary way in which the people are persuaded to participate.

Hon. Mr. Leluk: First, I do not believe any of those statements that were read into the record were attributable to myself or are quotes made by myself. I would not think so.

Mr. Renwick: It says: "The program first announced last year by Correctional Services minister Nicholas Leluk is long overdue. Mr. Kane agreed."

Hon. Mr. Leluk: I believe that we also had some public support from a particular group here in the province called Citizens Against Impaired Driving.

Mr. Renwick: Yes. I read most of the news clippings.

Hon. Mr. Leluk: We have here a program outline.

Mr. Renwick: Is it voluntary?

Hon. Mr. Leluk: Yes, it is. The participants must be gainfully employed; they must be willing to participate fully in the program. They must be willing to participate. They must be willing to have their immediate families participate in the program as well. It is not something that is forced upon them at all.

Mr. Renwick: That was the only point I had. It was to make sure there was not any element of compulsion in this program in case I have to participate in it.

Item 5 agreed to.

Vote 1603 agreed to.

Mr. Renwick: I have one request to make of the minister. I keep reading, and have read

recently, as I am sure you have many times, that the ratio of persons in incarcerated situations in Canada, in Ontario, is much higher to the population than it is in Great Britain, Sweden, Denmark or other places. I am not asking you to answer the question right now, but would it be possible to give me some kind of guidance in finding some accurate references to that kind of statement from your library or research work?

Every time I look into it, those are statements which were made usually in the late 1970s or a period such as that. It is constantly coming up and it is a favourite theme of people speaking on corrections to explain why we have more people in jail here than anywhere else and why people are always calling to have more people put in jail.

With all the rhetoric, I have never been able to get to the bottom of the accuracy of the basic information. If somebody could provide me with some guidance on that at some point I would appreciate it.

Hon. Mr. Leluk: Generally speaking, in answer to the question, I do not believe that is the case. However, we will be pleased to provide whatever information we can on that.

Mr. Evans: Just a further point: trying to interpret that data is quite a problem because nobody keeps statistics in the same way; I am sure you are aware of that problem.

The other thing is that in Ontario, and even in this country, we tend to incarcerate at a lesser rate and to use community alternatives more than other countries. At present we have something like 40,000 people on any given day under our care, counting both probation and parole, as opposed to the 6,000 or 7,000 incarcerated. When you compare those rates, they are quite comparable. Even in Lawlor's study of about four or five years ago of the use of imprisonment—which is now, obviously, out of date—comparing his actual statistics, by his analysis Canada only rated about fifth in the world and was not all that far out of step.

Mr. Chairman: This completes consideration of the estimates of the Ministry of Correctional Services.

Minister, to you and your staff at the ministry, thank you for being so patient and thank you for being so informative.

Hon. Mr. Leluk: If I may, Mr. Chairman, I would like to thank our two critics, Mr. Spensieri and Mr. Renwick, for their comments and their suggestions; and I want to thank the committee for its input as well.

The committee moved to other business at 5:41 p.m.

The committee adjourned at 5:46 p.m.

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SPEAKERS IN THIS ISSUE

Gillies, P. A. (Brantford PC)
 Kolyn, A.; Chairman (Lakeshore PC)
 Leluk, Hon. N. G., Minister of Correctional Services (York West PC)
 Newman, B. (Windsor-Walkerville L)
 Renwick, J. A. (Riverdale NDP)
 Spensieri, M. A. (Yorkview L)

From the Ministry of Correctional Services:

Algar, M. J., Executive Director, Planning and Support Services Division
 Birkenmayer, A. C., Manager, Research Services, Planning and Research,
 Planning and Support Services Division
 Dombek, C. F., Director, Legal Services, Planning and Support Services Division
 Duggan, M. J., Executive Director, Institutions Division
 Evans, D. G., Executive Director, Community Programs Division
 Humphries, Dr. P. W., Senior Medical Consultant, Institutions Division
 Pahapill, J., Manager, Industrial Programs/Energy, Institutions Division



Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations

Third Session, 32nd Parliament

Friday, November 25, 1983

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, November 25, 1983

The committee met at 11:47 a.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

Mr. Chairman: I see a quorum. The meeting will come to order. We are here to deal with the estimates of the Ministry of Consumer and Commercial Relations. Minister, you have an opening statement, I believe.

Hon. Mr. Elgie: Thank you, Mr. Chairman. A copy of my opening remarks is being distributed to the honourable members now.

I am certain it will surprise no one if I open my remarks today by saying it has been quite an interesting year for the Ministry of Consumer and Commercial Relations since I sat before this committee a year ago.

During that year the single greatest issue which dominated a great deal of my own time and that of my staff was the so-called trust companies affair. However, in view of the extensive statements I have made in the House and the volumes of material I have tabled there, I do not intend to take the time of estimates to review it. In any event we will review it again when we deal with the white paper and related reports.

In the case of the white paper, I hope to see it go to a committee of the Legislature for full discussion this winter between sessions. I would hope to introduce amendments to the Loan and Trust Corporations Act some time during the spring session.

It is clear then that the trust companies issue has had and will continue to have many opportunities for discussion and debate. Accordingly, I will instead emphasize those other activities, events and issues affecting my ministry which have been overshadowed by the trust company story.

As the members are aware, the scope and complexity of my ministry's responsibilities are perhaps the broadest of any in the Ontario government. From securities to censorship, from boilers to birth certificates, the Ministry of Consumer and Commercial Relations is a department store of some 72 different acts.

Just as a department store divides up its wares and services into related groups or departments,

I will endeavour to group my ministry's activities into five general areas for the purposes of these remarks, sometimes crossing formal divisional lines in an attempt to provide a more comprehensive picture for committee members. Those five general areas of ministry activity include financial integrity, consumer protection, public safety, public record keeping and public entertainment standards.

We will start with the general area of financial integrity.

The issues surrounding insurance companies, credit unions and trust companies are complex and demanding. A major function of the financial institutions division is to monitor the financial health and organizational structure of such financial institutions in Ontario, a function which this year has earned the division some of the longest running headline media coverage in the ministry's history.

I will start my review of the division with some remarks about the credit unions and co-operatives services branch.

Over the past year the financial outlook of the credit union system in Ontario has improved compared with the previous 12 months. There are two major reasons for this: first, the decline in interest rates; and, second, the implementation of various new procedures since June 1982 by this branch of the ministry.

From an asset base of \$5.1 billion and reserves of \$16.1 million as of June 30, 1982, the system has grown by 9.8 per cent. As of June 30 of this year assets were \$5.5 billion while reserves were comparable at \$15.9 million.

I would note, however, that there are still some 73 credit unions and caisses populaires under the direction of the Ontario Share and Deposit Insurance Corp., or around eight per cent of the total of the 932 credit unions and caisses populaires operating in the province.

As members know, some significant changes to the credit union legislation were passed by the House in June. This legislation, which was developed in consultation with the leagues and credit unions unaffiliated with the leagues, introduced certain measures which recent high levels of interest rates made necessary if potential future problem areas were to be minimized.

Members are aware that the legislation established minimum surplus and capital requirements, minimum statutory liquidity for various classes of deposits and it provides for the reasonable matching of the terms of deposits with those of investments.

In addition, the role of OSDIC was changed to reflect its responsibility as a deposit insurer. Leagues may, if they so wish, establish stabilization funds, a function which is now handled by OSDIC.

It is anticipated, of course, that leagues with their own stabilization funds will endeavour to manage their affairs so that their members do not become a charge on the Ontario Share Deposit Insurance Corp.

I should add at this point that in its primary role as a deposit insurer, the level of protection offered by OSDIC to depositors in Ontario credit unions and caisses populaires was increased this year from \$20,000 to \$60,000 to match the higher level of protection announced earlier this year by the Canada Deposit Insurance Corp. for deposits in chartered banks and trust companies.

The recent amendments also made audits compulsory and also imposed an obligation on a credit union's auditor to report to OSDIC and the ministry about its clients' business and financial practices. These provisions, together with many of the other areas I have commented upon, will be specified by regulation.

I would point out that we have received a number of inquiries from small credit unions expressing concern over the cost of audits. I am pleased to be able to advise the members of this committee that Credit Union Central of Ontario is providing upon application up to \$500 for each affected credit union with assets of less than \$500,000 to subsidize the compulsory audit program. Under the act an advisory committee has also been established so the credit union movement will have an important input into these regulations.

I have heard some comment suggesting that the legislation may have been prepared hurriedly. I would like the committee to know that the legislation is designed to be implemented on a gradual basis. Requirements of the director of credit unions have been introduced on a unit-by-unit basis since mid-1982. Work started with the industry in mid-January of 1983, and a committee made up of chartered accountants engaged in public auditing along with OSDIC and ministry representatives have been meeting

since February on the compulsory audit requirement of the amendment act.

We recognize the need to have the various sections of this new legislation proclaimed in a manner designed to enable a smooth transition to the new requirements. This is particularly important as the leagues need time to adjust to their new responsibilities. During the same period, the ministry has to introduce new systems in order to undertake its expanded role, and OSDIC must complete and implement its manpower planning and new insurance procedures.

I am pleased to advise you that the changes to OSDIC's role and the consequent impact on their employees has so far resulted in minimal dislocation to the staff. The staffing plan prepared by the chairman of OSDIC is on schedule and the ministry is being kept fully informed of progress.

The next year will see further innovation in the credit union area as the new legislation is implemented. My staff is working closely with the industry to ensure that all parties are aware of the intent of the regulatory requirements. Similarly, where action is required under the act, it will be taken judiciously.

On the co-operatives side, there has been a significant increase in the numbers of these corporations. As of September 1982 there were 689 co-operative corporations in Ontario. One year later, there was a net increase of 58 for a total of 747.

I would now like to turn to the insurance section. The staff of the office of the superintendent of insurance licenses and monitors life insurance agents, brokers and adjusters. It also handles consumer complaints about their sales practices and if the division is not satisfied with their conduct, a hearing may be held and their licence may be revoked.

The office employs three policy service officers who respond to consumer inquiries about insurance problems and deal with specific complaints about insurers. The number and type of complaints is monitored to evaluate the degree to which the industry is generating consumer problems, to identify areas where consultation with the industry can lessen consumer problems, and to identify where other action, such as legislation, may be needed.

As a result of some automobile dealership failures, consumer complaints were received with respect to extended mechanical warranty contracts. It was alleged that these contracts being sold to consumers in Ontario by dealer-

ships or other organizations were not backed by the vehicle manufacturer or were not properly funded to protect consumers in the event the dealer or issuer went out of business.

The office of the superintendent of insurance has worked with the registrar of motor vehicle dealers in issuing two bulletins for the guidance of dealers with respect to warranties other than those issued by manufacturers.

The bulletins caution dealers that warranty contracts, issued by parties to cover items neither manufactured nor serviced by the warranty issuer, may fall within the definition of insurance under the Insurance Act and that such warranties should either be issued by insurers licensed in Ontario or be backed by a licensed insurer. The bulletin also requires the insurance contract backing a warranty issuer to grant warranty holders a right of claim directly from the insurer in the event the warranty issuer is no longer available.

Over the past year, major issuers of extended mechanical service warranties which require insurance backing have either obtained the required insurance coverage or are in the course of obtaining such coverage subject to interim arrangements to protect consumers. Some issuers of extended vehicle mechanical warranties have discontinued operations in Ontario. If there are situations uncovered in which dealers are offering extended vehicle warranties without insurance backing, they will be investigated and may be prosecuted if the warranties fall within the definition of insurance.

The insurance services section last year also introduced changes that will allow auto insurers to increase the quantity of alternative statistical data that it could consider, as we strive to eventually eliminate age, sex and marital status as factors used in setting premium levels. This alternative statistics gathering plan will be introduced this fiscal year.

The division's financial examination services branch last year saw the completion of all statutory examinations of Ontario insurers. Poor underwriting results in 1981, and generally poor economic conditions in 1981 and 1982, caused severe problems for many companies.

Predictably, this resulted in an increased work load for staff trying to monitor problem companies, but we believe the effort paid off. Close monitoring resulted in an improved financial position for most of these companies by the end of last year.

During the current fiscal year the branch will continue to carry out statutory examinations of

all Ontario insurers. In recent months greater use has been made of statutory hearings under the Insurance Act as a means of maintaining supervision of the industry. These hearings will continue to be held in the months ahead whenever warranted by the situation.

The cemeteries branch of my ministry's financial institutions division approves the establishment of new cemeteries, the expansion of old cemeteries and prices set for cemetery plots. The branch is also responsible for monitoring cemetery trust funds and for overseeing general levels of grounds maintenance.

12 noon

A long-standing problem has been the concern of native peoples with the treatment given the remains of their ancestors. While this is not a problem relating solely to the Cemeteries Act, some aspects of the problem could be resolved by changes in the cemetery legislation.

Meetings have been held with other ministries and representatives of the native peoples and proposals for changes to the act have been circulated. When agreement has been reached the proposals will be put forth in the form of a bill which could be ready as soon as next spring.

Before I leave the area of financial institutions, I would like to touch briefly on the report tabled earlier this month on the feasibility of establishing an insurance exchange here in Toronto. Following cabinet approval last fall, I announced the appointment of Colonel Robert Hilborn as chairman of a blue-ribbon industry advisory committee to examine the question of establishing such an exchange. The committee's detailed and optimistic findings have already received general cabinet support and the government will soon announce the role it will play in helping to create the legal, financial and administrative framework needed to establish such an exchange.

A successful insurance exchange in this city would go a long way towards stemming the flow of an estimated \$1 billion worth of insurance and reinsurance premiums out of Canada every year. Such an exchange would also provide a Canadian marketplace where insurance can be placed with underwriters prepared to share large or particularly high risks, for a price negotiated on the floor of the exchange. Lloyds of London, for example, has been operating successfully as an exchange for almost three centuries and similar operations have opened in recent years in Chicago, New York and Miami.

To be successful, such an exchange in Ontario must offer a market environment that is open,

competitive and relatively free of government interference. This would be a self-regulating group run by its members in much the same way as the Toronto Stock Exchange runs its own affairs. I am personally convinced that the establishment of an insurance exchange some time over the next few years would effectively reduce the premium outflow from this country and might turn the tables around and attract some foreign investment.

Concerning the pension commission, the need for financial integrity takes on what may be its greatest personal significance when applied to someone's retirement years. The Pension Commission of Ontario keeps close tabs on what will probably total 8,400 or more registered private pension plans by the end of the 1983-84 fiscal year.

Originally set up under the Pension Benefits Act of 1965, the Pension Commission of Ontario has taken on the broad responsibility of supervising the operation of these plans, administering the pension benefits guarantee fund, watching over and controlling the winding up of defunct pension plans and investigating complaints from employee members of plans.

Last year the large number of plant closures and bankruptcies caused concern that some pension plan members might not receive the benefits they were promised when their pension plans were terminated. Fortunately, the high interest rates available on annuities at that time meant all of the 425 pension plans which were completely wound up in fiscal 1982-83 will be able to meet their pension obligations.

The pension benefits guarantee fund ensures that all pensioners and employees over the age of 45 with at least a decade of service with a company will receive certain guaranteed benefits if their pension plan is wound up and is short of funds to meet its commitments.

After intensive studies, guarantee fund regulations were filed this August. These new regulations set out the procedures to be followed on the windup of a pension plan, methods to be used by the actuary in preparing the actuarial report on the windup and the assessment rates to be paid by employers whose pension plans have unfunded liabilities—that is, when assets are insufficient to cover accrued benefits.

The mechanisms for collection and payout on the guarantee fund were put in place this summer and the first assessment is now nearing completion.

Amendments to the Pension Benefits Act which went into force last February give depen-

dent children and spouses more protection against defaults on court-ordered support payments. Pension income can now be considered as part of general income by the courts to meet the defaults on support payments ordered under the Divorce Act or any other support order enforceable in Ontario.

Until these changes were enacted, pension benefits were immune to seizure or attachment for any reason other than to satisfy court orders made under the Ontario Family Law Reform Act, a single exemption granted in 1978 when that act came into force. It seemed unfair that court orders in support of children and spouses should be upheld in one instance and rejected in others when an attempt was made to seize or attach pension income.

The select committee on pensions' final report on the area of pension reform is under review by an interministerial task force made up of senior officials from all ministries with pension responsibilities. I am sure that once reforms are in place, the pension commission will take on an even more important part in ensuring that members of pension plans are given the required protection of the reform initiatives.

In addition, members of the pension commission and its staff have worked closely with their counterparts in other jurisdictions in an attempt to obtain a consensus on a uniform legislative approach to reform of the private pension system in Canada. In addition, the Canadian Association of Pension Supervisory Authorities, of which we are a member, is currently developing uniform disclosure legislation.

One of the overriding factors confronting reform efforts in the pension field is the need for the provinces, the federal government and the private sector, to work towards common goals or risk the perpetuation of a pension system that is fragmented, difficult to administer and insular.

The last area I will touch on under the general heading of financial integrity is that of the Ontario Securities Commission. During last year's recessionary conditions, the OSC initiated a number of legislative and regulatory changes designed in large part to encourage Ontario's capital and commodity futures markets to raise venture capital more easily while at the same time maintaining high levels of integrity. These moves were made necessary by a fairly significant decline in both volume and value of public and private funding obtained through the sale of equity and debt securities.

To assist junior companies in the raising of critically important high risk capital, the com-

mission approved a Toronto Stock Exchange proposal to relax criteria for listing industrial and resource firms on the exchange and to introduce a new system of financing through the facilities of the exchange.

Larger firms were not forgotten, as the commission also moved to simplify procedures for them. A prompt offering prospectus was introduced to provide for an accelerated procedure for offerings of securities of senior issuers by way of a short form prospectus. By reference, much of the continuous disclosure that such issuers make under the act is incorporated in the new prospectus. Clearing time for a prompt offering prospectus is now usually a week or less.

This past spring the commission's earlier decision to deregulate commission rates came into effect. The move followed a joint hearing the previous year with administrators from other provincial stock exchanges. Following deregulation the Toronto Dominion Bank proposed a new broker access service, which included arranging the execution through registered dealers of brokerage transactions for customers at discount rates. The bank withdrew the service on the request of the securities commission to give the commission sufficient time to consider the implications for the securities industry of services of this kind being offered.

A lengthy series of public meetings on the subject was completed in late September, and the commission issued a report that concluded, in essence, that with specific appropriate safeguards, the provision of access to pure execution services would not hamper the ability of the securities industry to perform its basic function of underwriting and distributing new issues of securities. The report, however, made it clear that the securities industry will also retain its exclusive roles of providing underwriting, full brokerage services and investment advice.

Takeover bids have also been prominent on the OSC's agenda over the last year as the commission tries to assure equal treatment for minority shareholders. Changes in the commission's takeover bid laws were recommended this September by a committee of lawyers specializing in securities law. The committee's specific recommendations and subsequent public comments are now being reviewed by the commission, with a view to recommending amendments to the Securities Act.

12:10 p.m.

In the meantime, the commission is proposing to prepare and publish guidelines concerning the circumstances in which it would consider exercising its powers under the act to encourage a follow-up offer.

The commission continues to actively encourage the development of legislation and policies which are compatible with those of other provinces and territories in Canada. The Ontario Securities Commission is also considering the issues involved in extending the civil liability provisions in the act, to include misrepresentations in the continuous disclosure documents required of reporting issuers in Ontario. Currently, these provisions apply only to misrepresentations in prospectuses and certain circulars.

Before I move along to the general area of consumer protection, I would remind the members that the Toronto Futures Exchange Act was also proclaimed by the Lieutenant Governor in Council last month. At the same time, the government approved the membership of the exchange's first board of governors.

With a planned mid-January kick-off date, the Toronto Futures Exchange will share floor space with its parent body, the Toronto Stock Exchange. I am sure the futures exchange's opening will represent an important advance for Ontario investors who in the past have had to direct much of their futures trading to major American exchanges. What is most important about the creation of a futures exchange independent of the stock exchange is the fact that it will encourage membership by individuals and financial institutions who are not necessarily members of the Toronto Stock Exchange.

My ministry's responsibilities and legislative authority reach in many directions, including one that in the eyes of the public is an essential reason for its existence. I speak of consumer protection, a role we share with our federal counterpart, the Ministry of Consumer and Corporate Affairs. Our public image is one of mediator and protector—the government agency that, in a very real way, attempts to police much of the marketplace, protecting the innocent from the minority of merchants, contractors, sales people, and service trades that choose to operate in a less than fair way.

This is still a free country where some of the old truisms of the marketplace remain as valid today as they ever were. Buyers must continue to beware, and if some deal still seems too good to be true, it probably is. No government agency can take the consumer by the hand and lead him or her through every transaction. Such a mar-

ketplace would soon collapse or stagnate under the weight of government intervention and control.

The most stringent set of regulations in the world cannot replace the best form of consumer protection in existence—a well-informed and cautious consumer.

But even the best-informed consumer needs a helping hand in cases of abuse, and that is where my ministry's business practices division comes in. Protecting consumers from con artists and unfair business practices, the division's staff enforces codes of conduct for specific types of businesses including travel agents, collection agencies, private bailiffs, and real estate, mortgage and business brokers. Our regional network of consumer advisory services offices provides services at the local level.

Although separate pieces of legislation govern particular areas, the division's two key laws—the Business Practices Act and the Consumer Protection Act—cover a wide range of unethical business practices.

Most consumer complaints are handled at the eight consumer services bureaus across this province. Last year, our consumer services officers mediated more than 13,000 complaints on behalf of consumers, sometimes helping the consumer by simply explaining his or her rights and responsibilities.

The exercising of these responsibilities may take the form of the consumer writing a registered letter to rescind a contract, under provisions of the Consumer Protection Act, or possibly suing a merchant or business in small-claims court. Frequently, the officer acts successfully as a go-between or mediator between the two parties, a process that returned more than \$1 million to consumers over the last fiscal year.

While we have had great success with these mediative efforts, many other cases require further investigation. The division's investigation and enforcement branch looks into complaints to determine if business people are breaking the law. If so, various orders for compliance may be issued to the business to stop the unfair practices or charges may be laid. This often involves close co-operation with police departments and other law enforcement agencies.

Before I turn to some specific areas of investigation and concern, I would quickly like to review a few of the statistics on our accomplishments of the last year. I have already noted the work of the consumer advisory services branch. The investigation and enforcement

branch, acting alone or in co-operation with the police, participated in 186 investigations and laid 543 charges. The division continued its investigation of mortgage brokers reviewing 202 financial statements and carrying out a dozen in-depth investigations.

The division's inspection process allows it to examine and seize the books and records and to freeze the bank accounts of any business registered with the business practices division, including real estate, business and mortgage brokers, motor vehicle dealers, travel agencies, bailiffs, collection agencies and consumer reporting agencies. More than 3,800 such inspections were carried out on registrants in the 1982-83 fiscal year.

Although this is clearly the age of do-it-yourself home repair, many people continue to turn to home repair firms when the need arises. This area continues to be one of the most common sources of consumer complaint. Last spring, for example, a Toronto construction company was fined \$7,000 in provincial court following an investigation and the laying of charges under the Business Practices Act, by the investigation and enforcement branch. The sentence represented one of the stiffest penalties ever levied under the act.

The company had led a consumer, who also happened to be disabled, to believe that expensive roof repairs to her home were needed. The woman signed a contract for \$2,420 in repairs that were worth only about \$600 on the open market. A concerned neighbour alerted the ministry after learning of the situation. The same firm, along with three of its sales staff, were later charged with fraud in a separate case in which an elderly Toronto couple signed a \$16,500 contract to have aluminum siding installed on their home when, in fact, the job was estimated to be worth less than half that amount.

The individuals appeared in court in September, were convicted and strongly urged to pay back the couple's \$3,000 down payment before sentencing takes place next month.

As a result of these kinds of consumer frauds and ripoffs, the division, in co-operation with my ministry's communications services branch, issues numerous press releases and consumer warnings through the course of the year. Aimed at increasing the public consumer awareness, these releases receive excellent local and regional media pickup across the province.

Another major source of complaints are automobile repairs and resales. More and more people are electing to keep older cars rather

than trade them in after just two or three years of use. This trend towards fixing up old cars or buying used cars has provided some unscrupulous businesses with opportunities to take advantage of the unwary customer.

The auto squad, a combined unit made up of police and members of the division's investigation and enforcement branch, laid some 370 charges last year related to overcharging for repair work and odometer rollback frauds. Fortunately, the number of rollbacks has begun to decline and to the best of my recollection, as an aside, we do have the lowest percentage of any province or state that I am aware of. This is a situation that can be attributed to the fact that dealers are aware of the squad's rollbacks has begun to decline and to the best of my recollection, as an aside, we do have the lowest percentage of any province or state that I am aware of. This is a situation that can be attributed to the fact that dealers are aware of the squad's efforts.

Despite that decline, however, the problem does continue. A case in point reached court this September. Two Scarborough men who tampered with car odometers were ordered by a provincial judge to pay \$4,500 in restitution and \$2,500 each in fines. The men had misrepresented the mileage reading on cars they had sold privately to four Toronto-area residents. This same case brought to light again the problem of whether all so-called private car sales are, in fact, truly private. A private seller could pose illegally as a front for a car dealer who does not want to be held responsible for selling a bad car.

Again, our information and media relations efforts continue to stress that prospective used car buyers should first check with the car's previous owners concerning its repair history and actual odometer reading. Previous owners can be identified for a small fee through the records search section of the Ministry of Transportation and Communications in Downsview.

12:20 p.m.

Overcharging car owners for vehicle fitness certificates is another auto-related problem. Consumers who take their vehicle to a licensed inspection station for a safety check can find themselves at a disadvantage if the recommended repairs must be made before the certificate can be issued. If car owners decide to go to another garage for a repair estimate, they still face a charge for the first inspection.

The tendency then is to have the repairs carried out at the first shop without first obtaining a competitive bid on the repair work. High-priced work that was not really necessary

and sometimes was not even completed may be the unfortunate result.

To illustrate this point and to better warn the consumer, the combined auto squad last year took a special car, a so-called ghost car, prepared with a simple defect, to different repair shops for their estimates on the price of obtaining a fitness certificate. Investigators were given varying quotes ranging from \$20 to more than \$400.

The car repair business has improved over the last seven or eight years, but it can still remain a jungle to those vulnerable consumers who lack knowledge. There is a temptation for some critics to urge government to set up a form of universal car repair facility registration scheme. Unfortunately, you could spend millions of dollars on the registration and processing alone. In addition, you would need a very hard-nosed law enforcement program requiring a major manpower and financial commitment.

In an industry this large with an estimated 100 million car repairs carried out each year in Canada, we think there are few ideas more effective than the notion that the next car through the garage door could be one of our auto squad ghost cars.

The auto repair industry itself has been working to develop programs. It feels that its arbitration program, run in conjunction with the better business bureaus, is working effectively to resolve consumer complaints.

My ministry is still studying specialized warranty legislation and highly publicized lemon laws, that have appeared recently in some American jurisdictions. This entire area must be examined carefully to determine whether or not these approaches would be beneficial and cost-effective for Ontario consumers. On a broader front, we are also studying used car warranties and auto repair information disclosure requirements.

[Applause]

You never applaud me in the House like that. Get used to it and keep doing it. Do not stop in the Legislature. We think you have hope. Goodness gracious, I hate to say that, but nevertheless—

Mr. Williams: Do not hold your breath, minister

Mr. Boudria: No, don't hold your breath.

Hon. Mr. Elgie: Of concern to me, however, is that any such legislation would have to be carefully drafted and communicated so as not to reduce consumer vigilance by raising false or exaggerated expectations.

While on the subject of cars, I would again remind the committee members that the new motor vehicle dealers compensation fund approved by the Legislature in June will go into operation some time next spring. The fund will cover legitimate unpaid claims made by a consumer against an automobile dealer. If car buyers are unfairly dealt with and can prove it in court or if they have lost their down payment as a result of the insolvency of the dealer, they will be able to receive full compensation through the fund. The fund is modelled on the successful travel industry compensation fund and will replace requirements dating from 1965 that car dealers post a \$5,000 bond, a level of protection that has been made inadequate by inflation.

Over the last year the business practices division has made increasing efforts to clamp down on unlicensed mortgage brokers and financial scams designed to take advantage of the tight money supply situation. Last winter, for example, notices started appearing in newspaper classified advertising sections promising that all types of financing and refinancing could be arranged regardless of credit rating. They called themselves financial consultants, but financial sharks would have been a more accurate label. Of course, all they wanted in return for arranging loans and mortgages through some party was a little up-front or good-faith money, varying from \$100 to \$2,000 or more.

In one case a man asked one of these consultants for a \$300,000 loan to allow him to buy out his business partner and pay off some outstanding business debts. He paid \$1,000 up front for the loan but, when his firm's debts came due, the consultant said he had, unfortunately, not been able to arrange the loan. Before the businessman could make other financial arrangements, his creditors had put him into receivership.

The division responded with a series of media releases advising the public on the courses of action available to them to avoid winding up in a similar situation. At the same time newspapers co-operated with our requests by withdrawing such advertisements from their publications unless the advertiser could provide proof of registration as a mortgage broker.

A cease-and-desist order followed in one case in February and fraud charges were laid in another in March. Earlier, a Melbourne, Ontario man, with three prior convictions for dealing in mortgages without a licence, was convicted again and sentenced to six months in jail.

A uniform code of ethics for Ontario's debt collection agencies became law this past sum-

mer. Long-established guidelines regarding methods used to collect debts were written into the formal regulations of the Collection Agencies Act. In addition to spelling out the rules of the game regarding notification, hours of accessibility, information provided and telephone harassment, the regulations prohibit collectors from contacting a debtor's employer, relatives, neighbours and friends for information other than telephone number and address.

The industry shares our view that it is in everyone's best interest to have the guidelines clearly spelled out in the act so that all collection agencies and collectors follow the same set of rules. Equally important, this codification of the guidelines will help consumers better understand their rights.

Although it received considerable publicity earlier this fall, I would repeat that all of the 321 people who lost money in the bankruptcy of Re-Mor Investment Management Corp. in early 1980 have accepted the Ontario government's offer of compensation. The company's investor-creditors had been given until mid-September to decide whether to accept the offer we had formally made in July. The compensation program, following recommendations from former Ontario Ombudsman Donald Moran, returned about \$6.4 million, including interest, to those investor-creditors who had lost an estimated \$6.6 million in the Re-Mor collapse.

The Ombudsman had suggested the losses suffered should be shared one third by the investors themselves, one third by the provincial government and one third by the federal government. When the federal government—you know which party that is, I am sure—refused to cover its portion, Ontario voluntarily increased its share of the loss to two thirds.

The eight-year-old travel industry compensation fund faced its first major crisis in early 1982. When Sunflight and Skylark failed in late April of last year, the fund's trustees, along with the industry representatives and our own officials, had to mount an unprecedented campaign to move holidayayers and pay out funds to travel suppliers. Changes were made to the Travel Industry Act's regulations to allow the fund to pay in advance for those passengers who had paid for holiday trips scheduled to depart within the first nine days after the collapse.

Claims up to this month have totalled more than \$3 million and \$2.1 million actually has been paid out. We are now before the courts attempting to recover some of the funds frozen by the registrar on the collapse of the travel

firms last year. A successful resolution of this case will allow the fund's board of trustees to make further distributions to claimants, hopefully up to 100 cents on the dollar.

The Sunlight and Skylark experience resulted in numerous regulatory changes last December to help the fund deal more effectively with large industry collapses in the future. The fund has been replenished as a result of a levy against the travel industry, resulting in additional contributions in January and August.

As of October 15, the balance on hand stood at \$1.5 million, leaving it in a healthy position to deal with the consumer claims that will likely result from the collapse just two weeks ago of Air Bridge Corp., the operator of Shamrock and Chieftain Tours. That firm was placed in receivership by its major air carrier on November 9.

12:30 p.m.

The business practices division plays a major role in warning consumers about the latest scams and market problems through regular press releases produced by the ministry's communication services branch. It would be impossible to touch on every area discussed over the past year, but suffice it to say that these releases receive a very high level of media pickup across the province.

Frequently, these warnings go beyond the specific legislated areas of the ministry's responsibilities. For example, just before last Christmas the division warned unemployed persons seeking jobs to be wary of the growing number of employment information services which gladly took a fee but rarely provided anything more than rewrites of existing newspaper employment advertisements. There was nothing illegal about selling information garnered from other sources, but we felt many people, desperate for work, might be taken in by their advertising.

The division continues to monitor developing trends in the marketplace with a view to potential legislation, if needed. For example, we have been studying the field of franchising in Ontario for several years now, and we are currently considering the options available to us: whether we should simply continue to monitor this increasingly popular way of doing business or whether we should intervene in an attempt to regulate the relationship between the franchisor and the franchisee. Our goal, of course, would be to protect the small business person, in this case playing the role of the consumer, by providing him or her with more detailed and open information about the franchising firm.

The ministry also continues to study with close interest developments in the area of credit and electronic funds transfer. This is an extremely complex field which we can all see now, at its most straightforward and simple level, in the form of computerized automatic tellers. Although it has advanced little from that stage at the moment, its potential as an alternative way of carrying on regular daily transactions is great. Such a development could prove advantageous to the public, merchants and banking institutions alike. However, we must also continue to ensure that the consumer's rights are not compromised by runaway technology.

The work of the Residential Tenancy Commission has always been relatively high-profile—not a surprising situation when you are dealing with the roof over people's heads—but last year and this, the commission's fourth and fifth years of operation, can almost be described as cathartic. It was during this period that the rent review process in the province was confronted with one of its greatest challenges. As a result of that challenge and other concerns, the government brought in temporary protective legislation for tenants and assigned the task of re-examining and refining our rent review legislation to an independent commission.

Following the now famous "flip" sales of the almost 11,000 Toronto apartment suites formerly owned by the Cadillac Fairview Corp. Ltd., it became apparent that some action had to be taken in the face of potentially large rent increases requested by landlords and attributed to heavy financing costs from the purchase of rental property.

Accordingly, one year and one week ago, I announced the Residential Complexes Financing Costs Restraint Act to place a five per cent cap on that portion of a rent increase attributable to a financial loss arising from increased financing costs claimed by a landlord as a result of the purchase of a residential complex. That legislation, Bill 198, went into effect three days before Christmas. Although it is scheduled to sunset on December 31, 1983, I introduced a bill yesterday proposing the extension of this legislation for another year.

On that same eventful day one year ago I also announced that a commission of inquiry would be established under Mr. Stuart Thom. The commission was ordered to look into the application of current rent review legislation and to make recommendations on changes that might eliminate or reduce any of the inequities that

may be present in the existing system. Included in commissioner Thom's terms of reference was a re-examination of the undeclared sections of the Residential Tenancies Act, particularly to study the advisability of integrating the Landlord and Tenant Act with our rent review provisions.

Throughout the rest of last winter and this spring and summer, the commission held public hearings across the province, receiving numerous submissions from interested private citizens, tenant and landlord groups, and public and private agencies and corporations.

Mr. Swart: Including the New Democratic Party.

Hon. Mr. Elgie: Including the NDP, who present their view whenever anybody will bother to listen to them.

Mr. Boudria: And the Liberal members.

Hon. Mr. Elgie: You certainly have a good track record in this province. People listen carefully but do not vote for you. However, that is another thing.

I think it is significant that even before I announced the five per cent ceiling on the pass-through of financing costs, the Residential Tenancy Commission responded to growing concerns regarding the effect that apartment sales were already having on rental increases.

Mr. Swart: He used to be such a nice guy.

Hon. Mr. Elgie: All right. I will write you a note, and we can really talk about what we feel for each other—but in public like this? You taught me these things in all the years I have been here.

I was such a quiet, co-operative fellow when I first came here, but then you drove me out of that mould and you made a warrior out of me—at least a public warrior. Now, in private, we can still be what we really are in certain things relating to—

Mr. Boudria: Oh well, back to medicine.

Hon. Mr. Elgie: No. I didn't say the same about you. You can relax. It's still a warrior role with you.

Mr. Boudria: Oh, well.

Hon. Mr. Elgie: The Residential Tenancy Commission amended its own interpretation guidelines, used by rent review commissioners when making their decisions on rental applications, to say that a landlord's recovery from a financial loss arising out of a new purchase could be spread over a five-year period, two

years longer than the former guideline. These amendments were not designated to call into question the legitimacy of considering financing costs as a very real business expense faced by landlords; they were aimed at softening the blow of such costs on rental levels paid by tenants.

During the last fiscal year, which ended March 31, in cases where a landlord's financial losses caused by financing costs were a factor, the average rent increase resulting from such financial losses alone was almost eight and a half per cent. However, during the first quarter of the current fiscal year—that is, in April, May and June—this factor alone dropped to just over five and a half per cent.

On the topic of rent levels, the average rental increase allowed by the RTC over the first half of the 1983-84 fiscal year was 10.6 per cent, a reduction of more than three and a half percentage points from the 14.2 per cent average allowed on rent increase applications during the 1982-83 fiscal year. The decline over the past year can be attributed to a reduction in interest and inflation rates as well as to Bill 198 and the commission's own amended guidelines.

Last year, the number of applications for rent review hearings reached an all-time high. New records were also set for completed hearings and the number of landlord-tenant mediations carried out. For the first time, part-time commissioners were recruited to assist with whole-building review hearings.

The combination of the continuing decline in the number of applications received and increased staffing has had a favourable impact on the backlog of hearings, and the RTC expects to be dealing with rent review applications on a current basis in most parts of the province early in the new year. This success has resulted in some backlog in appeals, but the RTC hopes to have that in hand by the spring.

I am informed by the commission that about one fifth more rental units came to rent review in 1982-83 than during the previous fiscal year. Landlords asked for an average of almost 21 per cent and received, on average, just under 14.2 per cent. Those tenants who applied for rent rebates were successful in 78 per cent of the cases finalized during the year, receiving, on average, rebates of \$450.

In a more recent development, the RTC has launched proceedings in the Supreme Court of Ontario against representatives of four Toronto companies which have allegedly engaged in

practices intended to make tenants pay rents in excess of those amounts already set by the commission. This is a particularly serious case, and the commission is seeking jail terms for the individuals and fines against the companies. Aside from the specifics of this trial and its outcome, it stands as a warning to those who would consider breaking the law in this province to extract higher rents from their tenants.

The commission has obtained two successful convictions in lower courts this year, and another two cases are still before the courts.

Now let us turn to the technical standards division. My ministry may be called the Ministry of Consumer and Commercial Relations, but if its name were fully descriptive of what we do on a daily basis, the name would take up a full page, a situation that not only would increase printing costs but also would turn even the shortest note into a two-page letter.

Mr. Boudria: It would lengthen your speeches too.

Mr. Swart: I don't know how it could.

Hon. Mr. Elgie: Well, I enjoyed the one-day bill that became two, so perhaps we could discuss problems that you seem to have in communicating your desires.

12:40 p.m.

The term "consumer and commercial relations" does describe much of what this ministry does, but with more than 70 pieces of legislation to administer, I am sure the members can understand how four words may not adequately describe all the areas in which we are involved.

An example of this is the ministry's technical standards division. Essentially, what it does is monitor and regulate certain specific areas of technical activity that might pose a potential threat to public safety or property, more specifically the areas of fuel safety, pressure vessels, elevating devices and upholstered and stuffed articles.

The division was formerly responsible for enforcement of the Ontario Building Code as well, but that function was transferred to the Ministry of Municipal Affairs and Housing in February 1983.

In reviewing the technical standards division's activities, I am going to start with what is probably the least known and least understood of its operations, the upholstered and stuffed articles branch.

Some members may be asking themselves how a stuffed article could be a danger to anyone's safety, but the issue is not one of

physical injury; rather, it is one involving the purity and cleanliness of the material used. Tests conducted by the branch have revealed such materials as old mattress stuffing and used nylon stockings inside children's toys, for example.

The stuffing of articles with unclean or second-hand filling is prohibited in the province. The 3,000 manufacturers selling stuffed articles must be registered and must fasten full-disclosure labels to their products.

Mr. Gillies: Just take notice, minister, that we want a list of all the people prosecuted for tearing off the tags.

Hon. Mr. Elgie: We'll see who did not stuff things properly and let you know.

During the last fiscal year, branch staff carried out just under 4,000 stuffing inspections and actually tested nearly 1,000 stuffed articles. This monitoring and testing program led directly to the removal of 34,000 stuffed articles from the market. The vast majority of this removed material was simply relabelled to indicate the true content. Among those two per cent permanently removed from sale were dolls filled with second-hand chipped foam manufactured by a home hobby operator.

The branch's successful efforts to educate the industry about filling and labelling requirements were reflected in a 39 per cent decrease in the number of noncomplying articles detected.

If there is any doubt about a new product's content, especially concerning those from overseas, importers, distributors and manufacturers are advised to submit a sample of the product to the branch for a ruling as to its acceptability.

For the remainder of the 1983-84 fiscal year, the branch will focus its efforts most heavily in three areas: industry self-regulation, the spot-checking of imports and the testing of products labelled as being filled with down.

Although the upholstered and stuffed articles branch has been able to attain a degree of self-regulation by some large retailers, it is felt there is room for improvement in this area.

By way of direct contact and the distribution of technical information sheets, it is hoped that a steadily increasing number of distributors and wholesale buyers will carry out their own spot-check and sampling operations, a situation that will result in fewer articles being offered for sale to the public which contravene the regulations.

The number of overseas companies registered to sell stuffed articles in Ontario continues to increase. Although the branch attempts to work closely with overseas registrants and/or their agents to make them aware of provincial

requirements, this area remains one where vigilance on the part of branch inspectors will have to be maintained.

Over the past five or six years the branch has put a lot of time and effort into testing of down products, with the result that revised standards have been adopted, new test methods established and the number of cases of product misrepresentation reduced substantially.

However, owing to the increased demand for down-filled products, increased prices for the raw material, reduced sales by Canadian manufacturers and increased imports, some concern has been expressed by the Canadian Down and Feather Products Association that cases of product misrepresentation may be on the increase. These products will therefore be checked more frequently this fall and winter, with subsequent testing of filling materials where it is suspected that there may have been some misrepresentation.

The division's pressure vessels safety branch helps maintain the already high quality of pressure vessels produced here in Ontario. It is an important industry in this province, with more than \$300-million worth of products and services exported last year.

The branch reviews pressure vessel design, materials and manufacturing procedures in addition to qualifying and certifying engineers who operate power plants.

The branch's engineering section reviewed more than 2,500 new pressure vessel designs last year and registered 1,356 welding procedures. Once construction actually began, staff carried out more than 79,000 inspections on materials, construction and welding quality. In addition, staff inspected newly completed installations, checked repairs, visited more than 9,000 operating plants and tested more than 23,000 welders.

Amendments to the Boiler and Pressure Vessels Act received royal assent in June 1983 to allow the best possible use of manpower and to reduce delays in repairing damaged pressure-vessel equipment. Where the need for repair has been identified and is required to maintain production, and where the insurance company has a qualified representative on site, it is unreasonable that repairs be delayed until a ministry inspector arrives, as has been the case in the past.

Similarly, organizations such as refineries and petrochemical plants operating on a 24-hour basis will now be able to repair pressure-containing equipment. Permission to carry out those repairs will be conditional on the companies having provided written evidence that they have prop-

erly qualified personnel and documented procedures that are approved of.

In addition, a complete revision of the Boilers and Pressure Vessels Act is planned, and a complete revision of the Operating Engineers Act is currently under review with the object of making the statute more easily understood.

I should point out that the responsibility for examining and certifying crane operators was transferred last fall from this branch to the Ministry of Colleges and Universities under the Apprenticeship and Tradesmen's Qualification Act.

The Elevating Devices Act of 1980, passed in 1981, has enabled the division's elevating devices branch to take measures to enhance the assurance of quality, maintenance and serviceability of elevating devices throughout the province. Staff inspected more than 600 new elevating devices during the past fiscal year and paid 27,000 visits to existing installations.

Branch staff developed and made use of new elevator and escalator testing standards and participated in the development of new standards through the Canadian Standards Association.

An amendment to the regulations is being proposed to make it mandatory that all new passenger elevators be designed and equipped for the convenience of physically disabled persons. In addition, signs will be required on all escalators warning the public to observe basic safety precautions.

Staff is working with outside groups such as contractors and unions in providing information sessions on the act and its regulations. The French-language capability of the branch, as well as the availability of bilingual forms and publications, is currently being expanded.

The fuels safety branch of the technical standards division administers the Energy Act, the Gasoline Handling Act and six associated regulations to establish essential requirements and minimum standards for the safe transportation, handling, storage and utilization of hydrocarbon fuels, namely, natural gas, propane, fuel oil and gasoline.

With a staff of 63 and a budget in the order of \$2 million, this program affects all Ontarians who use hydrocarbons, whether for home heating and cooking or to power vehicles and other motorized equipment.

Natural gas and propane have experienced growing popular support over the past few years, in large part because of provincial and federal off-oil support programs. In addition to

the large number of oil furnaces switched over to natural gas, there have been approximately 30,000 conversions of gasoline-powered vehicles to propane.

Throughout this period, branch staff have continued to work in close contact with the respective industries to ensure high levels of safety. One of the more serious concerns which the branch is dealing with is that of chimney corrosion in home heating systems converted to natural gas or propane.

Flue gases from natural gas and propane appliances contain a high concentration of water vapour and are cooler than those from an oil furnace. This water vapour can condense in the chimney and eventually corrode the brick and mortar lining. If this happens, there is some risk that debris may build up at the base of the chimney or that the bricks may eventually collapse inwards, blocking the flue and forcing dangerous gases into the home. The risk of condensation is greatest in large chimneys designed for oil or coal furnaces.

The simplest and most economical solution to this potential problem was determined to be the installation of a metal chimney liner. Accordingly, new regulations were drawn up to make liners mandatory when conversion to natural gas or propane was being carried out, unless, of course, the chimney was already equipped with a tile liner in good condition. Last winter, in co-operation with utility companies, three million pamphlets were sent out to explain to home owners the critical importance of chimney liners and the need for regular chimney inspection.

12:50 p.m.

In addition to the branch's major publicity campaign in this direction, it also warned home owners about the associated dangers of oversealing their homes to protect against drafts and air infiltration. The general trend towards fuel conservation is commendable, but homes can be sealed to the extent that there is an inadequate volume of air available for proper combustion, which may result in carbon monoxide being generated.

The situation can be further complicated if either an exhaust fan or fireplace is in operation. The furnace chimney may reverse its action, resulting in exhaust fumes being sucked back down the chimney and into the house. These fumes, when recirculated through the furnace burner, will increase the carbon monoxide concentration.

In addition to warning the public about the dangers of oversealing their homes, branch staff

are co-operating with other provincial and federal ministries to devise both short- and long-term solutions to this problem.

As I noted in a recent statement to the Legislature on new regulatory developments in the field of propane fuel vehicles, last year there were an estimated 15,000 conversions carried out, mostly for company fleet operations. Facilities for storing and dispensing propane have kept pace, growing from 1,000 in 1981-82 to more than 1,700 this year.

Mr. Chairman: Excuse me. I would just like to announce to all of the members that we have decided to start at nine o'clock on Wednesday morning. Now that you are leaving, I just wanted to remind all the members. Carry on, minister.

Mr. Boudria: I am sorry I have to leave, but the flights are such that one has to do this.

Mr. Chairman: I understand.

Hon. Mr. Elgie: Good flight.

Mr. Boudria: We do not have government planes at our disposal.

Hon. Mr. Elgie: Neither do we, for that matter, but we can have a water bomber fly over your house every day, if you wish, and drop whatever seems appropriate.

Mr. Chairman: Carry on.

Hon. Mr. Elgie: When equipment is adequately installed, propane-powered vehicles are considered to be as safe as those that use gasoline. European experience over many years and our own experience over the past few years have shown this to be true, but as is often the case with any new and rapidly employed technology, problems can and have developed.

The branch has been concerned about the quality of propane conversion work, the possible existence of unregistered conversion shops and certain component problems. Incorrectly sealed propane systems can develop leaks. To help reduce that possibility, the Ministry of Transportation and Communications, in co-operation with my ministry, has agreed to implement a mandatory safety inspection program for new propane fuel systems in over-the-road vehicles. It is MTC's intention to have the inspection program in place and operational early in 1984.

Owners of existing propane-powered, over-the-road vehicles will have until January 1, 1985, to have their vehicles inspected at a licensed inspection station and to obtain a sticker indicating a satisfactory installation. After that

date, propane-equipped automotive filling stations will be prohibited from supplying fuel to any propane-powered vehicle without the sticker. In addition, propane fuel systems will be included in the MTC's inspection requirements when vehicle ownership is transferred to another person.

The results of these inspections during that year will be monitored and analysed by the fuels safety branch to determine whether there is any need for more stringent standards or for more frequent inspections.

I should add that a training program for licensed propane fuel system inspectors is currently being developed by Centennial College for use at community colleges across Ontario. This course development is being funded by the Ministry of Energy.

Energy Act regulations will also be amended to require that anyone applying to become a licensed propane system installer must first be a licensed automotive mechanic. Last spring we also upgraded the regulations affecting the filling of propane fuel tanks by licensed propane fuel handlers. During the summer we increased the technical and equipment requirements needed to qualify for propane conversion shop registration.

In addition, the branch is developing an entire package of regulatory amendments concerning the installation of propane equipment on vehicles. I am sure all these moves will increase the level of safety surrounding the installation and use of propane equipment in Ontario cars and trucks.

Last month the branch launched a warning information campaign to urge owners of propane fuel vehicles to have remote fill enclosures checked as soon as possible. The branch had recently discovered that the housing on some remote-fill installations located on the side of the car might have a poor seal, allowing propane vapours present during the refuelling process to gain access to the interior of the vehicle.

Two mishaps this summer were caused by this problem. If any of the media are reporting this issue, I encourage them to repeat this warning to the general public: All propane vehicle owners should have an inspection carried out by a licensed conversion shop immediately if they have that type of remote-fill installation. If a problem is found, I am told the repairs are relatively simple and inexpensive.

New regulations requiring improved levels of safety for underground gasoline storage tanks were also introduced during the last year. A

long-buried service station fuel storage tank can become perforated by corrosion over time, allowing gasoline to escape into the surrounding soil. The new regulations require that all newly installed tanks be protected from corrosion by one of several available approved methods.

The branch is also working towards better handling by the industry of abandoned underground gasoline tanks to eliminate any potential hazard. The branch is preparing to implement an inspection program to ensure that abandoned underground tanks are dealt with by industry according to code requirements.

While I am on the subject of gasoline, I should note the efforts of the branch to reduce problems during the many so-called gasoline price wars of the last year. Some customers, in search of a bargain, have asked service station attendants to fill a wide variety of unusual and often unapproved fuel containers.

We had reports last winter and spring of people storing bargain gasoline in anything they could get their hands on, including windshield washer fluid jugs. They do not seem to realize just how dangerous this practice can be or that it is clearly in violation of the Gasoline Handling Act.

In addition to a widely circulated media press release, branch staff participated in local radio talk shows to explain the hazards associated with the improper use of gasoline containers. One service station operator was charged, convicted and fined \$2,000 for selling gasoline in an unapproved container.

As a result of concerns about the improper dispensing of leaded gasoline into vehicles equipped with catalytic converters, the gasoline handling code was amended effective September 2, 1983. It is now an offence for any person to install or use a nozzle with an incorrect diameter spout and for any operator of a service station to install, provide or use any device on a nozzle that would allow leaded gasoline to be dispensed into an unleaded vehicle tank. The fuels safety branch and the Ontario Ministry of the Environment are co-operating in the enforcement of this code.

I have covered the formal areas of the technical standards responsibilities, but the division does from time to time respond to special requests from myself to investigate other areas of concern. Such a request occurred this past summer, and the ministry took initiatives to promote public safety awareness in backyard swimming pools, particularly with regard to

spinal cord injuries that may result from such diving accidents.

Although diving safety falls outside the regulatory ambit of the ministry, and indeed does not fit precisely within the legislative purview of any ministry, diving accident statistics gathered over the past few years are, frankly, alarming.

Earlier studies, funded by the March of Dimes and conducted by Dr. Charles Tator of the acute spinal cord injury unit and chief of the division of neurosurgery at Sunnybrook Medical Centre, revealed that 10 per cent of all spinal cord injuries in Ontario were due to diving accidents.

Worldwide, Ontario is second only to Australia in the frequency of these accidents. Young males between the ages of 13 and 30 were found to be the largest single population group at risk. Follow-up studies done by a task force of the Royal Life Saving Society in 1979 revealed that 45 per cent of the cases occurred in swimming pools.

In this regard, I am talking about cases that result in complete or partial paralysis. The conclusion is that in Ontario the public is not sufficiently aware that diving is a potentially dangerous activity.

Following background research, my ministry's communications services branch prepared a television public service announcement to alert the public to the potential hazards of

diving. Although only launched in midsummer, I was delighted to see that the campaign received considerable follow-up coverage from local news media of all sorts.

By August 20, 23 out of 26 Ontario television stations had broadcast the dramatic and thought-provoking 30-second warning spot. Of these same stations, 20 produced their own news features on the problem, using local medical and diving experts who had been suggested by my communications staff as good interview subjects. The TV spot was carried over the CBC national news feed, and stories appeared in major daily newspapers.

All of this was achieved at a total cost to the public of only \$6,000, one of the lowest production costs you will find for material as effective and sophisticated as this. I would add that if this had been purchased as advertising time, the cost would have surpassed \$100,000. We plan to distribute the TV spot again next spring and summer.

Mr. Chairman: Minister, this may be a good spot to stop your presentation. I think it is time to adjourn.

The meeting is adjourned until nine o'clock next Wednesday morning.

The committee adjourned at 1 p.m.

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No. J-16

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations

Third Session, 32nd Parliament

Wednesday, November 30, 1983

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, November 30, 1983

The committee met at 9:05 a.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

Mr. Chairman: I see a quorum, and I think we will start the meeting with the minister continuing his opening remarks.

Hon. Mr. Elgie: Before I start, I wonder if I could ask the indulgence of the committee for a moment? At 9:30 I have a commitment I should attend for about five or 10 minutes. John Williams has agreed to come in and continue with my speech, if the committee will allow that, and I will return as quickly as I can.

Mr. Chairman: Agreed.

Mr. Boudria: A point of order. Before we start, I was wondering if I could also ask something of the committee.

Could we settle on a time to discuss the trust company matters, either later this week or next week, so that members who might not necessarily be on this committee, but who have an interest in that area, could then know how to organize their time to come here?

I would think that by the time this morning is over, we will probably be close to concluding everyone's opening remarks. Maybe some time tomorrow afternoon the minister would like to respond to some of the opposition remarks, which I understand is traditional practice.

Could we start on the trust company matters immediately after that tomorrow afternoon?

I have discussed this with Mr. Cassidy. He seems to be agreeable to that.

Mr. Chairman: What we possibly could do is have the minister's statement, then the critics', then decide how much time we have left, and apportion the time, whichever way the committee would want. That is the usual procedure.

Mr. Swart: I would agree with that suggestion. The trust issue is an important one, and I think we should set aside certain time for that. But there are other matters, too, like consumer matters, I would like to set some time aside for.

Perhaps if we can organize our time, after we are finished with the minister's statement and the other critics' statements, it would be possible.

Mr. Mitchell: Perhaps a few specific areas of concern—if you remember, Jimmy Breithaupt in the past has always put forward a proposal that the committee has adopted.

Mr. Chairman: Yes, we can time allocate.

Hon. Mr. Elgie: The Liberals support the principle of time allocation.

Mr. Mitchell: Yes, sure.

Mr. Boudria: Why do you have to generalize about that?

Mr. Chairman: We know you are different.

Mr. Mitchell: We will proceed after the statements.

Mr. Chairman: We will proceed after the statements. In the meantime, minister, please continue.

Hon. Mr. Elgie: I am now going to turn to what many might consider to be the least exciting side of the ministry, but one which plays a vital role in preserving our legal rights in society. Of course, I am referring to what could be called the public record keeping or even score-keeping operations within the ministry: the companies branch; the property rights division; and the office of the registrar general.

Today we live in a society in which the pace of change leaves few traditions standing unscathed. Sometimes I think the single most enduring tradition we have going for ourselves right now is continuing change itself. It is in times like these, then, that those elemental things common to both old and modern societies become even more important—those things that give us a base from which to work; those things that define who and what we are and what we own and control.

I am happy to be able to report that the companies branch is one of the busiest in my ministry. I say that I am happy because the level of activity within this branch serves as a good barometer of Ontario's economy.

A high level of activity indicates the business community has confidence in Ontario and in itself. New companies are incorporated, new partnerships and proprietorships are formed, and our corporate and partnership files are searched at an increasing rate.

New companies and partnerships mean new employers, new employees and new taxpayers. Searches of company records usually indicate impending business transactions. The branch has experienced significant growth in all of these areas, and therefore I am sure that the members of this committee—and indeed all Ontario residents—have cause to share my pleasure in this situation.

Last year, incorporation activity was down, in the face of the recession, but this year we have more than made up the decrease, and if the current trend continues, we will incorporate a record number of new firms.

During the same recent half-year period, partnership registrations rose by 13.2 per cent, while written and telephone requests for company searches increased by 105 per cent. By the end of this September, the total number of searches carried out by branch staff had reached more than 173,000, representing an increase of more than 10 per cent over the first half of the last fiscal year.

At the same time, through extra effort on the staff's part, and some work simplifications, the productivity of staff rose by over 25 per cent.

To deal with the growth in work load, we took steps in 1979 to make our services more accessible to the public. To this end we started "while-you-wait" or "over-the-counter" corporation services, now available through seven land registry offices around the province—namely London, Ottawa, Kingston, Windsor, Thunder Bay, Sudbury, and Peterborough.

We are currently planning to start while-you-wait corporation services at the Hamilton land registry office, and by the end of the 1984-85 fiscal year we intend to offer similar services in other urban centres. Incorporation or amendments to articles of incorporation can now be obtained within 15 minutes or less at these decentralized locations, thus sparing business people, or their lawyers, the delay of dealing with this ministry by correspondence.

Accomplishments within the branch have been numerous over the current fiscal year. One that I am particularly pleased with was the expansion of the French language services. An additional bilingual position was created in the partnerships registry, to improve both telephone and face-to-face services for the francophone community. Bilingual forms and instructions are now available for transactions, under the Partnerships Registration Act, the Limited Partnerships Act, the Corporations Act, and the Business Corporations Act.

Paperwork was reduced for the business community and our own staff, with repeal of the Mortmain and Charitable Uses Act, thus doing away with the requirement that corporations incorporated outside Ontario needed to have a licence to hold land in this province. In addition, some title problems for charities holding land in Ontario have been cleared up by this move.

As a result of amendments last year to the Corporations Information Act, companies are no longer required to keep copies of all information notices filed with this ministry.

In addition, the long-awaited revised version of the Ontario Business Corporations Act came into force three months ago, effectively putting Ontario in the forefront of corporate law. Modelled on the federal government's Canada Business Corporations Act, the new legislation applies automatically to all existing Ontario business corporations in good standing.

Under the terms of the act, shareholders' rights have been substantially widened to allow them to put forward proposals at shareholders' meetings. In addition, shareholders opposed to certain measures or business deals can now protest by dissenting and requiring that the corporation buy them out.

A remedy for minority shareholders and creditors who feel their rights have not been respected was also included in the new act, allowing them to apply to the Supreme Court for relief from any action considered by them to be so prejudicial to their interests as to amount to oppression.

Extensive revisions were also made to the act's share capital provisions. Corporations are no longer required to create a specific number of common or preference shares in any particular class although there must still be one class of voting shares. The concept of par value was also abolished and all shares are now without any minimum or par value.

In a move to further lighten the paperwork load, the new act exempts nonoffering—private—corporations from audit requirements if the shareholders consent, providing their assets do not exceed \$2.5 million and their sales do not exceed \$5 million. Under the old Business Corporations Act, audit exemption limits were set much lower at \$500,000 and \$1 million respectively.

Under the new act, a corporation is given the powers of a natural person and therefore it is no longer necessary to set out the objects in the articles. Now the board of directors of a corpo-

ration is no longer hampered by the objects when considering possible future expansion plans.

I have just introduced the new Extra-Provincial Corporations Act to replace part VIII of the Corporations Act. I am particularly proud of this proposed legislation because with this statute we will enhance national unity; we will be the first province to stop treating corporations from our sister provinces as foreign businesses.

This new legislation will remove licensing requirements in Ontario for businesses incorporated in other Canadian jurisdictions and will simplify licensing procedures for foreign corporations. These measures will reduce the paper burden on the business community and help lift unnecessary barriers from interprovincial commerce.

Another extremely busy part of my ministry, and certainly the biggest in terms of staff, is the property rights program where the single most important problem facing both staff and equipment this year is an incredible increase in work load.

This division is responsible for maintaining records on all registered land transactions in the province and for the personal property security registration system which keeps track of all liens and similar charges against personal property.

The real property registration branch experienced a continuing rise in registrations in the last fiscal year to a total of more than 1.07 million, but in the six-month period ending September 30, 1983, the volume of registration rose even further by 44.5 per cent over the same period last year. We expected some increase; however, this rate exceeded branch forecasts by 36 per cent.

Mr. Chairman, to give the members a clear picture of the work loads involved, the statistics show that eight out of the last 10 months have seen record numbers of registrations through the real property registration system carried out for each of those months. June saw an all-time record set for registrations of 137,355 compared to a previous high of 133,845 in June 1977.

Our staff has worked to maximize all our resources and, fortunately, with a slight easing of the numbers of registrations just now being felt, lineups and delays in registration offices are becoming shorter, a development we hope will continue.

There are several reasons for the extremely high number of registrations carried out by the branch, the most important one being the recent popularity of shorter term mortgages of

one or two years. Instead of renewing a mortgage once every five years, now we may see a new mortgage on a given piece of property every year or two. Other factors include lower interest rates and provincial and federal support programs which helped to boost real estate sales late in 1982 and into 1983.

Over the last fiscal year a number of improvements were made to management organization and administrative procedures and a quality control procedure was developed for checking on existing microfilm records to allow the destruction of older paper documents in land registry offices. Pilot testing of these quality control procedures will start in the next few months.

As previously noted, the branch continues to work closely with the ministry's companies branch to offer over-the-counter corporation services.

9:20 a.m.

This year, the real property registration branch is also continuing with its management regionalization program and with its assistance to the land registration improvement project which I will discuss shortly. New offices opened in the spring of this year in Cochrane and St. Catharines. In co-operation with the Ministry of Government Services, construction will start this year on new offices in Welland, Ottawa, North Bay and Orangeville and on additions to our offices in Glencoe, Bracebridge and Almonte.

More than three million individual items, ranging from race horses to diamonds and automobiles to movie rights, are registered as security against more than \$3 billion in total debts at my ministry's personal property security registration branch.

The Personal Property Security Act is currently under a section-by-section review by an advisory committee under the chairmanship of Mr. Fred M. Catzman, QC, of Toronto. The review should be completed this year. The act has served as a model for similar legislation either proposed or enacted in four other provinces.

I believe many people are now aware that some major developments are currently taking place that will effect far-reaching changes in one of the province's oldest institutions, the land registration system.

Ontario has regulated the registration and protection of interests in land since 1795. Two separate registration systems are in use; land registration and land titles. With the rapid increase in real estate activity in the 1960s and the resultant registration activity, it became

obvious that both systems were in urgent need of change.

The government responded by commissioning a report from the Ontario Law Reform Commission which outlined a far-reaching program of improvements. The land registration staff of the ministry, assisted by outside consultants, then worked out detailed proposals for reform, resulting in a report in 1979. These were approved in principle by cabinet and resulted in the establishment of the province of Ontario land registration and identification system, Polaris, to develop, test, and implement the various actual changes.

The project began its work in April 1981. I am pleased to report some significant changes have already been made.

To outline briefly the scope of the complete program, we intend to reduce the work load for both our staff and our clients by undertaking a series of major legal and operational improvements. For example, documents will be shortened and standardized and many nonessential technical registration requirements removed. Searches have already been shortened and will be simplified. Automation will be introduced into our record keeping.

Increasing use will be made of new storage media such as microfilm to increase the security and reduce the bulk of our records. A new property mapping system, designed to integrate with and serve the needs of all other provincial agencies, as well as our private sector clients, will be undertaken. I am particularly pleased to report that this project has been largely funded utilizing savings achieved by the project. We hope soon to be in a position to pay all of its costs from savings it has generated.

The land registration improvement project is currently testing microfilm systems to be used for public searching and storage of document and plan images. Currently, document microfilm systems have been installed in four offices; Newmarket, Hamilton, Whitby and Milton. The project is evaluating the test systems and investigating the application of new technology to the storage of plans and documents.

Across-the-province implementation of microfilm systems will lead to substantial savings in the storage of documents and plans. This, along with the new automated index system, when fully operational can realize a 40 per cent saving in space used to store plans, documents and various paper indexes.

The geographic area title search feature will permit organizations such as gas and oil compa-

nies, government ministries and Ontario Hydro, for example, to gather ownership information and property addresses in a matter of days rather than months or years when planning or installing pipelines, transmission lines, highways, parkway belts, etc. The cost reduction to the Ontario government alone will be substantial.

We have also embarked on a project to use microcomputers to gradually reorganize and convert the paper records in some of the offices to electronic form. The microcomputers will be used to maintain the title records as changes come into the office, and printers will reprint the paper indexes as required. This means that over a period of a few years we will gradually convert the records to an automated format and absorb most of the cost during day-to-day work.

To test this approach, microcomputers have been installed in the Chatham office to reorganize the records there. It is expected that this will shorten the time taken to fully automate that office from several years to one or two years.

An entirely new feature of Polaris is the creation of a set of property index maps that will assist users of the registry system in performing title searches. By identifying the number and location of properties, these maps provide the basis for the automation of record keeping in the land registration system. In addition, these maps provide a visual index to properties and their relationship with adjoining properties.

As in other public record keeping areas, the registrar general's operation may seem rather dull to an outsider, but its work is of critical importance to the orderly and honest functioning of society. The office of the registrar general received more than 400,000 applications for birth, marriage and death certificates and other related documents during the 1982 calendar year, all of which required a search for the original registration document before the appropriate certificate could be issued—a significant work load when you think of it and even more so when you realize that until the spring of 1982, the issuance of a certificate required a laborious manual search of bound ledgers filed in what I am told amounted to more than four miles of shelving space.

For the last year and a half, however, a computerized vital statistics information system has been changing branch procedures. Already, all birth registrations dating back to 1941 have been keyed into the computer, and over the next year birth records back to 1930 will also be included. The savings in time and leg work is

clear. What used to take five or six working days is now accomplished in a day.

All of the events the registrar's office is required to record for posterity are now being fed directly into the computerized system. Because registrations can be filed with the office up to a year after the actual event, precise records for calendar 1982 are still not available, but figures compiled so far reveal that more than 128,000 births, more than 65,000 deaths and almost 73,000 marriages took place in Ontario that year.

For those who follow such things, the birth rate in 1982 was the highest since 1971, while the number of deaths and marriages reached their highest-ever levels in Ontario history. The 1982 birth rate, however, is still well below the record year of 1960 when 159,245 births were recorded.

Computerization also makes these records far more accessible to researchers. This will prove invaluable in helping hospital, government and school officials improve the accuracy of their planning by allowing them to anticipate future demands on their respective services.

Mr. Chairman, I wonder if Mr. Williams could start reading?

Mr. Williams: "In the months ahead, we expect to introduce amendments to the Vital Statistics Act and to give serious consideration to introducing a new Change of Name Act, the current version of which comes under the responsibility of the Ministry of the Attorney General.

"The last major revision to the Vital Statistics Act was in 1948 when commonly accepted social conventions were significantly different from those of today. For example, the current legislation makes no allowances for a mother who may not want to use the natural father's surname when naming her child. At best, under the current laws, a child's last name can include a mother's surname only if her name is used in combination with the surname of the natural father or her husband.

"A provincial government legislator in the 1940s could hardly be blamed for failing to anticipate the day when a newborn child might not be named after anyone but the father, even if that father were dead or long gone. Times have changed and certain of our laws must change to recognize that fact.

9:30 a.m.

"I would like to turn now to the fifth and final category of my ministry's activities, that of entertainment standards, encompassing the

theatres branch, the Ontario Racing Commission, the athletic commission and the lotteries branch. In addition, I am going to include the Liquor Control Board and the Liquor Licence Board of Ontario under this general category, not so much from any attempt on my part to depict liquor, beer and wine as a source of entertainment, but rather because most alcoholic beverages are consumed during nonworking hours—at least I would hope so."

That is the minister's observation, not mine.

"I think I can say without any fear of contradiction that the work of the theatres branch, or more specifically that branch's operation known as the Ontario Board of Censors, has in the past few years attracted some of the strongest media criticism in its history and yet, ironically, now attracts greater public support than ever before.

"I for one have never doubted that the majority of Ontario residents support the concept of an appointed public body empowered to screen, categorize, and in a minority of cases, judiciously request the editing of those scenes of violence and explicit or abusive sex that the great majority of citizens find unacceptable in commercial films destined for public screening.

"Ontario residents are increasingly concerned about the negative effects that the exploitation of sex and violence may have on our society. This province is inhabited by concerned and caring people who want government to play a key role in protecting traditional family values.

"Earlier this fall, the Premier (Mr. Davis) made his own views clear on this subject. In a speech to a party policy conference, he conceded that most of us would probably like to live in a society that had no need for censorship. He added, however, that society is not everything we would like it to be.

"The Premier concluded—and I think he spoke for both the government and the majority of Ontario residents—that he had no intention of allowing men, women, children and families to be degraded, exploited and abused for the purposes of commercial exploitation and profit.

"I am sure the members are aware that the Ontario Theatres Act is under challenge in the courts. The current legislation was overturned earlier this year on technical grounds, a decision that we are appealing, I might add. In the meantime, the theatres branch and the Ontario Board of Censors continue to operate on a business-as-usual basis.

"Whatever the outcome of the rather limited case now before the courts, this minister and this ministry stand firmly behind the branch and

its work and remain committed to introducing amended legislation that will enable the branch to carry on.

"The objectives of the theatres branch, of course, go beyond its most visible role of ensuring that all films shown on public screens are consistent with current community standards. The branch also monitors safety in public theatres and tests and licenses film projectionists.

"The theatre inspection role was returned to the branch early this year with the appointment of two inspectors. As a result, all the 350 theatres in the province have been inspected at least once this year to ensure both public safety and compliance with the age and classification requirements of the censor board.

"During the 1982-83 fiscal year, the board applied its guidelines based on community standards to more than 1,900 films. Of these, only 56, or less than three per cent, were finally rejected. Editing was requested in 127 films or about six per cent of the total. In the first quarter of the current fiscal year alone, the board screened and classified some 639 films.

"In keeping with a philosophy of open decision-making and public accountability, the 15 part-time board members participated regularly in private and public meetings and media interviews to explain the role of the board and its policies. It is through encounters such as these and the ministry's more formal periodic research into public attitudes that the board develops its decision-making guidelines. These guidelines are published and distributed widely to theatres, libraries, schools and community associations across the province.

"The board itself is made up of experienced and community-involved people from across the province. Under the new legislation we expect to further enlarge the board to better represent Ontario's diverse interests. The existing guidelines used by the board and its informal appeals procedures will also become more formalized within an amended act and its regulations.

"The censor board's mandate is based solely on the application of community standards of public screenings of films and videotapes. In the case of videotapes, the board's jurisdiction only extends to their use in such public places as theatres, licensed bars and restaurants.

"The private screening of videotapes currently falls outside the board's jurisdiction, although in the absence of clear guidelines regarding the enforcement of federal Criminal Code obscenity laws, some commercial distrib-

utors have approached the board for its opinion on what classification their product would have received if it were to be distributed for public screenings.

"Further, the general public, libraries, schools and major cable television companies have made use of the board's expertise and classification guidelines to determine if certain videotape movies are suitable for viewing by their audience.

"In conclusion, the board has just published its annual report for 1982, and I expect to table it soon. Although all board decisions are on the public record, this will be the first time that every film screened and classified by the board during a given year will be listed in one publication.

"I would now like to turn to the Ontario athletic commission, perhaps the smallest part of my ministry but one which certainly attracts its share of public attention—an understandable situation when you consider the commission's sole responsibility is the regulation and supervision of the combative sports of professional boxing and wrestling.

"Since 1928 the Ontario athletic commissioners have played a key role in maintaining a good safety record for this province. Last year there was no exception for the 99 boxers licensed to fight here.

"The three-year-old passport system and boxer registration is continuing to prove its worth. Every boxer must present his passport to bout officials before entering the ring. The passport lists the fighter's medical and boxing history, so that officials can cancel a fight if he has fought or been knocked out too recently.

"The Ontario passport system has worked so well that Quebec fight officials often ask to see an Ontario boxer's passport before he is allowed to enter the ring. In addition, because many New York state boxers fight here in Ontario, a direct computer hookup between Ontario and New York officials is being developed to provide for quick access to additional boxing records. Our own athletic commission records continue to be upgraded to serve as both a resource for commissions in other jurisdictions and to ensure proper matchmaking in Ontario.

"Over the last fiscal year the commission issued licences to two Toronto wrestling promoters who went on to sponsor 19 events. Licences for 137 matches were issued for bouts outside Toronto. A total of 149 wrestlers were licensed to perform in this province.

"I am sure members are aware of the rela-

tively new phenomenon in the combative sports known as kickboxing.

Interjection.

Mr. Williams: Maybe we have an expert here. I don't know. Maybe you can tell us about it later.

Interjections.

Mr. Williams: "Unlike professional boxing and wrestling, kickboxing involves the wearing of protection on feet, chins and hands and allows a participant to land blows on his opponent's body with feet and hands. In other words, kickboxers can both kick and punch, a particular combination that left them outside the current regulations made under the Athletics Control Act."

Interjection.

Mr. Williams: We get verbal kicks and punches in the Legislature all the time, don't we?

"The fast-growing sport, effectively a blend of traditional boxing and karate, was first seen in California in the early 1960s. Often confused with so-called full-contact karate, kickboxing made its presence known in Ontario about 10 years ago in the form of demonstration bouts before the martial arts community.

9:40 a.m.

"By way of background, I should tell the members that the government was almost ready to regulate kickboxing by way of amendments to the Athletics Control Act. Certain draft regulations had already been drawn up, but following concerns raised by a highly publicized exhibition match of kickboxing on January 20 this year in Toronto, it was instead decided to launch a major study to determine the safety of this new sport.

"As a result of this, I announced a moratorium on kickboxing while the study was carried out by an independent team of medical and martial arts experts. The team was made up of neurosurgeons Dr. Alan Hudson and Dr. Michael Schwartz, and karate master Kenneth Hayashi.

"Their 71-page report was released in late July and it is safe to say it stands as one of the most comprehensive studies of sports safety ever conducted. I am also sure it will be used as a basis for further research into the broader area of boxing safety.

"The report's bottom line, at least as far as kickboxing is concerned, is straightforward. Although the research team felt strongly about the health dangers of all combative sports, it reasoned that kickboxing was not significantly

more dangerous than regular boxing. It was further reasoned that since the jury is still out on any conclusive medical argument in favour of banning all combative sports, the regulations should instead be amended to bring kickboxing under control.

"Another issue in this field that drew public attention this past summer was that of women boxers. There seems to be increasing interest in boxing on the part of women, and clearly the prohibition amounts to little more than a piece of antiquity standing in the way of women achieving full equal rights in this sport. The Kidd report on amateur boxing, just completed for the Ministry of Tourism and Recreation, takes a similar view of the prohibition.

"To cover both these issues, kickboxing and female boxers, I soon expect to make regulatory changes to the Athletics Control Act. In the case of the former, new kickboxing regulations under the act will require extensive post-fight medical monitoring to allow for continued research into the sport's safety. This monitoring system including a central repository for medical fight data at the University of Toronto will be financed by the licence fees paid by promoters.

"In addition, the amendments will include a comprehensive list of fight rules and procedures put together by the commission, martial artists and promoters. These rules will draw on the recommendations made by the national task force on boxing.

"I would like now to turn to the Ontario Racing Commission. The Ontario Racing Commission's job was once described as making fair play out of horse play. That is no less true today than it ever was, but its role goes far beyond that of a simple regulator. Not only does the ORC keep horse racing on the straight and narrow in all its forms, including thoroughbred, quarterhorse and standardbred racing at tracks across Ontario, it also plays a key role in guiding and improving the quality and quantity of racing horse flesh through its sires stakes program.

"In other words, the Ontario Racing Commission has evolved over the last decade from a purely regulatory role to that of both regulation and industry development and improvement by means of economic support. This newer role stems from government's awareness that the horse-racing industry makes a substantial contribution to this province's economic health. In addition, the government realized some form of support was necessary if the industry's viability were to be maintained and enhanced.

"Thirteen years ago the ORC rebated to the

industry about \$1.7 million out of the \$20 million collected in taxes from Ontario's race tracks. During the 1983-84 fiscal year, almost \$20 million will be rebated, a large sum of money by any standard. It must be remembered, however, that even considering such a high level of support, the government's net level of tax revenue from horse racing is approximately \$42 million, a figure that does not include municipal taxes, sales taxes, business taxes, personal taxes or the various licensing fees paid by industry participants.

"The bottom line here is that horse racing is an important industry in Ontario generating more than \$125 million in revenue each year and employing almost 40,000 people. It takes little insight then to understand why we play a strongly supportive role in Ontario horse racing

"The payoffs, particularly of the commission's sires stakes program, are reflected in the rising selling price of Ontario yearlings. In the case of Ontario-sired standardbred yearlings the average price of the top 50 animals increased dramatically over the past nine years, climbing from \$7,500 in 1974 to more than \$32,000 last year, a sale price that compares very favourably with North-America-wide averages. On the thoroughbred side the average price paid for the top 50 Ontario-sired yearlings increased from less than \$16,000 to almost \$69,000 between 1974 and 1982.

"To give members an even better picture of the industry, I should point out that in total sales of yearling thoroughbreds Ontario moved from fifth place in North America in 1980 to fourth place in 1982. Gross sales nearly doubled in that two-year period, climbing from \$6.6 million to \$11.4 million. These improvements are helping to attract considerably increased levels of foreign investment, with Americans and Europeans buying, training and racing their animals here in Ontario.

"These figures on their own would seem to paint a rather rosy picture, but the racing industry has found it difficult to maintain its small market share in the face of fierce competition for the public's leisure time dollars. Thus, in an effort to further support the industry, intertrack betting and telephone account betting were introduced last year following their legalization by the federal Department of Agriculture and a wideranging Ontario Racing Commission study of the industry.

The operation of these new forms of wagering is being monitored by the commission to iden-

tify any possible inequities that may result. For example, smaller tracks may find that they do not have the same level of telephone account betting as the larger tracks.

I mentioned the study completed last fall for the commission, prepared by Thorne, Stevenson and Kellogg. The study covers regulatory issues, race dates, improvement programs and the general needs of the industry, all from the perspective of trying to ensure that the horse racing industry in Ontario remains healthy. During the current fiscal year the commission will continue to review the recommendations contained in the study, and they will be implemented as the commission deems advisable. The commission also held in-depth discussions with all segments of the industry on issues affecting their common future, including the racetracks' tax-sharing agreement.

"Among the ORC's other accomplishments over the last year was the implementation of several new programs to help the commission's standardbred licensing operation carry out its regulatory and licensing operations more efficiently and effectively. These programs were designed especially for the commission by the data processing staff of the Canadian Trotting Association. The problem of unlicensed participants in Ontario horse racing has been virtually eliminated.

The commission has also implemented a quick system for renewing standardbred and thoroughbred participant licences on an annual basis. The sticker renewal system, much like that used on motor vehicle licences, will keep costs down while providing licensees with much faster service by eliminating the need to reissue a completely new licence each year. Licence renewal now takes about 75 per cent less time than under the old system.

"Intensive training seminars for standardbred judges were laid on over the past year as part of an ongoing development program for racing officials. I would also point out that this was the first year that all of our thoroughbred racing officials were Canadians trained here, the result of the now completed thoroughbred steward development program.

"In the year ahead the commission will be monitoring closely the results of the Ontario improvement programs and will conduct regular meetings with industry groups to discuss issues affecting all of horse racing in Ontario.

9:50 a.m.

"I would like now to turn to the lotteries

branch." I will pause so the minister can resume his seat to take up with that new subject matter.

Hon. Mr. Elgie: Whether it is a small church bingo game or a million-dollar raffle, charitable lotteries held in Ontario are licensed by either the ministry's lottery branch or local municipalities under the stewardship of the branch. All licence applications are assessed under stringent eligibility requirements. After the conclusion of each lottery the operator must submit a comprehensive follow-up report which is closely reviewed to ensure the lottery was run fairly and only for charitable causes.

The application of these important control measures ensures private lotteries and gaming events are run smoothly and according to regulation, generating large sums of vitally important funds for community improvement projects and charities.

In the case of bingo games, the number of licensed operations has climbed steadily over recent years. Last year bingo players in Ontario spent an estimated \$200 million, up 19 per cent from the previous year. About half of that total was returned to the public in the form of prizes with the remainder going to charity and to cover the game's operating costs.

Nongovernment lotteries attracted an estimated \$354 million during 1982. Monte Carlo nights, all of which must be licensed directly by the branch, continue to be popular, with 1,442 licences issued last year. Organizations may operate blackjack tables and various wheels of fortune. Bets are kept small to prevent abuses. Raffle lotteries and other forms of gaming at fall fairs and similar events accounted for another 650 licences last year.

I shall now turn to the final area of consideration under the general heading of entertainment, that of liquor and its control and distribution in Ontario.

The Liquor Licence Board of Ontario is that body which licenses distilleries, wineries, breweries, drinking establishments and special events involving the sale of beer, wine and spirits. It is a matter of common knowledge that the number of licensed premises under the Liquor Licence Act has increased tremendously in recent years. In addition, the business climate in which the liquor industry operates has become more complex and competitive. This, combined with reductions in the staff and budget of the LLBO, has made it necessary for the board to develop more sophisticated means of fulfilling its responsibilities.

As part of this program, the board has completely reorganized its industry and licensing audit operations. The revenue and investigative audit functions formerly divided between the liquor control and liquor licence boards have been strengthened and combined within the administration branch of the LLBO.

The increased flexibility and reduced overhead is resulting in more precise compliance operations, better protection of the large revenues involved and reduced expenses charged to the taxpaying public. Licensing revenues reached \$210 million during the last fiscal year, up from about \$170 million in 1981-82.

Well-publicized amendments to the Liquor Licence Act last year certainly met with the strong approval of many sports fans and New Year's Eve celebrants. The members will recall the sale of draft beer at football, baseball and soccer games was authorized on a trial basis at three major league stadiums. The LLBO has kept a close watch on the experiment and will be submitting a formal report shortly, but it has already been noted the experiment seems to have been largely successful.

The act was also amended to extend serving hours at licensed establishments one extra hour until 2 a.m. on New Year's Eve, a move which can be described as making both good practical and good business sense—good practical sense for celebrants because, after all, who wants to hear the last call 30 minutes after Auld Lang Syne, and good business sense for licence holders on what is probably the most important single night of the year.

Regulations prohibiting price variations for drinks were lifted on the request of the industry last December, paving the way for so-called "happy hours." We are keeping a close eye on this new trend and we will consider amendments to the legislation if it becomes clear that the so-called happy hour phenomenon is being abused by either the general public or licensees.

Times may have been tough but such conditions did not seem to dampen the enthusiasm for growth shown by Ontario's hospitality industry. The number of licensed establishments climbed from just over 9,000 to almost 9,600 during the fiscal year ending last March, an increase of about 5.5 per cent.

The board also held 264 hearings to investigate possible licence violations; in turn it suspended the licences of 62 establishments and cancelled 178 others. Although there are a variety of reasons for suspension, the majority continued to be for serving to minors.

Turning from the liquor licensing function to that of distribution and supply, I would like to discuss briefly the operation of the Liquor Control Board of Ontario. This last fiscal year could be considered a kind of high point for the LCBO as it opened its 600th retail liquor store in its 57th year of operation. Eleven new retail stores opened their doors last year and nine of the older style, counter-type operations were converted to modern self-service stores. These attractive and efficient self-serves now represent more than 70 per cent of the board's retail operation.

Total beer, wine and liquor sales in Ontario reached more than \$2.7 billion in the last fiscal year with just under \$1.5 billion of that attributable to direct sales from LCBO stores. A further \$1.2 billion was sold through Brewers' Retail outlets and \$33 million from company-operated wine stores.

Construction of the giant new storage and distribution centre in Whitby continues with its scheduled completion set for mid-1984. The centre will replace all outside storage facilities in Metro Toronto and reduce some of the work load at the overburdened warehouses in Ottawa and London. When fully operational, the Whitby distribution centre will serve at least 75 per cent of all existing retail liquor outlets in the province.

By 1990 the centre's computer-guided storage and retrieval systems will allow the board to store up to 3.7 million cases during the peak Christmas rush while distributing more than 110,000 cases a day. I am advised that the system will be so efficient that savings experienced as a result of this operation will pay for the centre within 14 years.

The 1982-83 fiscal year was a vintage one for wine lovers in this province. It was the first year that Beaujolais Nouveau was made available for sale at 41 selected liquor stores around the province. The release of each year's yield of new wine is a long-held tradition in France and it seemed to catch on here virtually overnight. Hundreds of people lined up last fall and again this month in what is bound to become a yearly event to purchase the first wine made from the French grape harvest. Now Ontario wineries are joining in with their own seasonal new wines.

The 1983-84 fiscal year could be the last for the Liquor Licence Appeal Tribunal because we will likely be introducing legislation to amalgamate that body with the more general Commercial Registration Appeal Tribunal. The LLAT's role in providing an independent appeal

process for the review of liquor licence board decisions will be continued by the CRAT.

The member for Prescott-Russell (Mr. Boudria) is misinterpreting the letter "T." I know he feels that way about many things in this party, but we cannot help him in that area. We can only help him in this area.

Mr. Swart: You should put your public relations department on that. I am sure they could come up with a better word.

Hon. Mr. Elgie: I think someone had a word that was questioned by the House leader of your party—CRUD, I believe it was.

Mr. Chairman: I think we should carry on, minister.

Hon. Mr. Elgie: Applications for appeals of LLBO decisions declined from 46 in 1981-82 to 36 in the last fiscal year, a change that is largely attributed to an equivalent decrease in the number of decisions by the LLBO.

Mr. Chairman, that completes what I must admit has been a lengthy review of our activities, concentrating on those initiatives, concerns and events that have a direct bearing on the public.

Internal and service functions are not usually given much space in an estimates speech, but before I close, I would like to mention the ministry's newest division, that of support services, incorporating four branches: finance systems and administration services; communications services; personnel services; and internal audit.

That division was formed in March in an effort to reduce the number of branches reporting directly to the deputy minister. I am not going to review the operations of each branch in detail, but I will touch on a few areas of interest. Throughout these remarks I have repeatedly mentioned the critical role that communications plays in a ministry like mine. Consumer protection is, after all, of little value to consumers if they are not aware of their rights or the services and information available.

In addition to an extensive media information operation, the information centre of the ministry provides bilingual inquiry services and maintains libraries of consumer and legal literature. The centre also offers professional development for educators and produces consumer education materials for use by schools and community groups.

10 a.m.

Last year the centre responded to 128,000 public inquiries and distributed some 630,000

brochures on consumer-related subjects. Through the centre's consumer education outreach program, teaching kits have been developed and workshops held for teachers. Staff also worked with educators to help set up consumer awareness classes. When those efforts are combined with the branch's direct media relations work, the flow of useful consumer information to the general public approaches that of a torrent.

In the area of personnel services I am particularly proud of some major advances for women in the ministry. Of special note was the addition of three women to the ministry's senior executive category. The people now filling the positions of deputy registrar general and superintendent of pensions are the first women to hold such positions in Ontario history. In addition, the executive director of the new support services division is the first woman to hold an executive directorship in this ministry.

Last year the two female judges appointed to Sudbury Downs racetrack were the first in North America. The affirmative action program is currently planning the development of a networking system to assist senior women in broadening career contacts that may prove useful in achieving future career goals.

I suppose a minister could talk for days about the details of his ministry's operations, all of them important in their own way, but the purpose of an estimates speech is not to record everything that has happened—although I am pleased to do that at the request of the member for Prescott-Russell.

Would you please bring the other documents forward so that I may commence reading them? Since he wants more information, I think it is important he should get it.

You mean you did not bring it with you today? Perhaps the committee will give me permission to read it tomorrow.

Mr. Swart: Perhaps you would like to comment on your comments.

Hon. Mr. Elgie: In any event, the purpose of an estimates speech is not to record everything that has happened or will happen but rather to portray a general picture of accomplishments, plans and concerns. This I feel I have done over the last couple of hours, and I now look forward to comments and questions from committee members.

Mr. Chairman: I think we should now hear from the Liberal critic, Mr. Boudria.

Mr. Boudria: Mr. Chairman, it gives me great pleasure to respond to the minister's opening

statement and to make the opening statement on behalf of our party. As the minister and members know, I am a brand-new critic of this ministry and I am looking forward to a very meaningful debate and to constructive criticism towards the minister from now until that date some time next year when we are called upon to cross the floor and form the government ourselves.

Hon. Mr. Elgie: Are you going to become a Conservative?

Mr. Gillies: Are you crossing the floor?

Mr. Boudria: No. "Ourselves," I said.

Hon. Mr. Elgie: Mr. Chairman, I think this committee should make particular note of this monumental decision being made by the member for Prescott-Russell. The reporters here will please make note of it.

Mr. Gillies: Mr. Chairman, on behalf of our caucus I would like to welcome Mr. Boudria.

The Vice-Chairman: Let us have some decorum, please.

Mr. Boudria: Thank you, Mr. Chairman. I am glad you are bringing those folks back to order. They require your direction.

The Vice-Chairman: I did not look in any specific direction, Don.

Mr. Boudria: In any case, I would like to outline on behalf of our party some concerns that we have in various areas of the ministry. They will not necessarily follow the same order the minister has used, but then again, the order he used does not follow the order set out in the estimates book, either, as he outlined himself in his opening remarks. I will then proceed the way we have separated the issues into areas of concern as we see them as a party.

This ministry touches so many different issues that it is difficult to touch upon them all in our opening remarks. You will be glad to know that I will not try to do that, either, because my speech would probably end up being as long as or longer than yours, and I am sure no one would want that.

Hon. Mr. Elgie: I disagree. I think you should take as long as you wish.

Mr. Boudria: I will spare you that particular situation.

In the beginning I should state that as a member representing a constituency made up of a large number of francophones, as you know, I am pleased to see that your ministry has advanced that cause more than some of your colleagues have. This does not mean that as a francophone representing a number of franco-

phones I am satisfied with the present situation; however, I am pleased with the improvements you have made compared to the way some of your colleagues are moving. There are a few of them moving faster than yourself but a far greater number are moving slower.

I notice that this year and last year, and perhaps in other years before, the annual report is produced in both official languages, as Mr. McMurtry would say. The French version is not ready at the same time as the English one but I am sure the minister will correct that in future years. Then the report probably will be in a tumbled version with half of it in French and half of it in English, which is the way I think you should be publishing it together with several other documents. I would hope in the future you will do that.

In my part of the province at least, if not elsewhere, I notice your land registry offices have also started to display bilingual signs. The fact you have moved in that area is certainly appreciated by all and we hope you will continue to improve those services. I am very confident, personally, that you are the kind of minister who will move in that direction.

I would like to begin by talking about the Liquor Control Board of Ontario. There is an interesting article written by Wendy Warburton of the Ottawa Citizen in which she described the government's policy on alcohol as the following. I quote her, and I am using the title of her article which says, "Tories' two-faced policy on alcohol." The whole thrust of the article was that on the one hand the government is living off the avails of liquor sales and in the same breath giving its seeming concurrence to some of the liquor advertisements we see in Ontario.

Certainly, the balloon on the steps of the Legislature only a few days ago is an indication of that kind of approval we seem to be giving to liquor sales, as are the ads we see on television depicting all kinds of near-impossible athletic ventures when one consumes Labatt's 50. We see those new vehicles, whether they be speed boats or any other new innovation, those new parachutes and those kinds of things. The first time I had ever seen one of those was in beer commercials. If we did not have beer commercials we would not learn about all of these new things on the market. It seems just a trifle unusual that our first exposure to those kinds of things would be through watching some company's beer commercial.

In the past, I know, there was an attempt on the part of your ministry, the government and

the boards responsible to at least tone that down, but I really think there is still too much of a depiction of being able to do things otherwise impossible once you have consumed a certain amount of beer.

While I am not one to advocate total abolition of beer commercials, or beer for that matter, I do think the ministry and the government should clamp down even more on the methods of advertising it. I guess that is the best way to summarize my feeling about beer advertising.

10:10 a.m.

On the other hand, though, as a person who was raised in a culture somewhat different from that in other parts of Ontario in so far as the sale of alcohol, especially of beer and wine, is concerned, I think your methods for distributing it now are very difficult and extremely unfair for people. I know you will probably think at one point that I am speaking from both sides of my mouth, but I do not think I am. Perhaps I am putting the emphasis on the wrong syllable, but not from both sides of my mouth.

When I say we are going—

Mr. Cassidy: Excuse me a second. There is something wrong with the sound system. I do not know if it is difficult for other people to hear. Mr. Chairman, could somebody from the staff check on the sound system? Don's voice is normally much clearer than that and I know it is not because he was out drinking last night. I think there is something wrong with the sound system that seems to be causing distortions.

Mr. Boudria: It is perhaps the microphone on that desk. In any case, I will continue.

I was indicating that in Quebec, beer sales and wine sales are now done through small, independent grocery outlets. I happen to think that is a rather effective way of distributing beer, and even wine. I do not believe it tremendously increases consumption, but it sure makes it a lot simpler for the consumer who wants to go and buy a case of beer.

It is rather difficult for somebody who lives in my constituency—in any rural constituency—to drive past 15 stores for 15 or 20 miles in order to get to the beer store. Why should they drive by all these other stores first to go to the beer store? Why not have the beer in the first store they go to, if that store wishes to be a distributor of that product?

I believe the Quebec example was advocated in a private member's bill by the New Democratic Party member for Cornwall (Mr. Samis) in this Legislature. That member quite often

proposes very thoughtful private member's bills. He proposed we have a bill similar to the Quebec bill in order to allow stores that have a smaller square footage than a particular amount, in other words small grocery stores that are independently owned, to sell beer. I believe the definition of "independently owned" in Quebec legislation says that one individual cannot own any more than four stores. In other words, if you own a chain of stores you cannot have a licence to sell beer.

There are also requirements that you cannot sell just beer in your store. It must be a grocery store. You must have X amount of groceries available in your store at all times so that you do does not start a system of distributing beer, in beer stores per se. In other words, they do not want Brewers' Retail stores over there at all, at any cost. The system they have established is rather to help small business.

It is interesting to know the effect that has had on chain store penetration into the market in Quebec. It is almost directly the reverse of what it is here in Ontario. I believe that in Ontario chain stores distribute something like 60 per cent of all groceries in this province, leaving 40 per cent to the independents. Those statistics are exactly the reverse in Quebec. I do not think there is any explanation for that other than that the stores in Quebec have the facility, if they wish, to sell beer and wine in their grocery stores.

I, for one, live only two miles from the Quebec border. Needless to say, crossing that border in our part of the province is somewhat like crossing from Etobicoke to Toronto.

Mr. Chairman: It is unguarded.

Mr. Boudria: Yes; it is that, of course. Apart from that, it is something we as citizens do not see. We cross that border and notice many laws that are very different. The differences are sometimes very hard to understand. The member for Carleton (Mr. Mitchell) is here with us this morning and he, of course, also represents a riding that is very near the Quebec border. I do not know if his riding touches the Quebec border.

Mr. Mitchell: It is divided by the Ottawa River.

Mr. Boudria: It is on the river. The riding I represent touches on the Quebec border for over 100 miles, with the boundary being the Ottawa River on the north end. The east end of my riding is only an imaginary line, fence posts, really, and the monuments, separate the two

provinces, so we see those different laws. They are not only different in the case of the sale of beer and wine; they are different in many other areas. That is certainly one aspect of policy of your ministry that I, for one, would like to see changed. I know we have had a private member's bill and a discussion in the Legislature on that. I believe the bill was defeated by the Legislature, but I would hope your ministry does change its views on that.

On the other hand, I would hope your government will continue to strengthen the policies, and I know I am going into another area of the ministry here, of clamping down on drunken drivers. Again, you may think that is talking out of two sides of the mouth, but I do not happen to think it is or that those two areas necessarily have to conflict.

As far as I am concerned, buying a case of beer in the grocery store and bringing it home is far less dangerous to the public than going to a hotel, although you are not supposed to drink and drive, and seeing a parking lot that will hold 500 cars. That is far more puzzling to me than the earlier example, if I can explain it that way.

I would hope you will gradually move in that direction; or you will at least look into the examples of other jurisdictions, especially, as I say, that of the Quebec government. I know we often criticize that province for some of the things it does wrong, but it does not mean there are not things they do right. I believe in that respect they do a good job.

I have a few concerns about liquor sales. There is at the present time an item sold in grocery stores known as bitters. As far as I know, that is a product which contains a large percentage of alcohol but is unregulated in any way, shape or form. I wonder if you could tell us the percentage of alcohol in that product later in your response and why it is that you can buy it in a whole bunch of stores. I have tried it in Ottawa. I have walked into a store and picked it up right off the counter.

Mr. Cassidy: For what purpose?

Mr. Boudria: As I understand it, people put that in coffee and things like that. I do not know what you do with the stuff.

Mr. Eves: Why are you buying it all?

Mr. Boudria: I did the experiment to find out where you could buy it.

Hon. Mr. Elgie: I want to know how you could handle all those bitters. Do you drink it by the glass?

Mr. Boudria: Perhaps you could indicate to us the percentage of alcohol and why you have an exception to the rule. It goes back to the point that I raised a minute ago. If I want to buy wine in Ontario at my favorite grocery store I cannot. Your government has decided that wine containing between five and 12 or 13 per cent alcohol cannot be sold in a grocery store.

On the other hand, somebody else can go into the grocery store and buy bitters, which is also alcohol. He can buy it at his corner store. Why is there a difference? I do not understand that. Perhaps you could explain it to us later.

I also want comments from the minister on the dial-a-brew business. How that functions is there is a system operating here in Toronto where you can phone somebody and he delivers liquor to your place. Are those people licensed by your ministry? How do they operate? There seems to be very little publicity surrounding them.

Mr. Mitchell: You can use your local cab company.

Mr. Boudria: Not legally.

Mr. Mitchell: It is done, let me assure you.

Mr. Boudria: This is legal. Dial-a-brew is a legal entity, as I know it. Perhaps the minister could respond as to how it actually functions at the present time. How do you license them? Why is it that so many of us do not even know of their existence? I can see the member for Carleton (Mr. Mitchell) shaking his head in disbelief that we have a dial-a-brew system in the province.

You did not mention in your opening remarks anything to do with the duty-free shops. Where are you at in the negotiation process with your federal counterparts in that regard? We know that they do exist elsewhere. We know that you have had a long-standing disagreement as to who would operate them. I believe the federal government wants to have those things sold by private enterprise by some sort of a tendering process. You are of the opinion that only the Liquor Control Board of Ontario should be selling liquor in Ontario and therefore they should have those particular stores as well.

10:20 a.m.

You mentioned at the close of your remarks that you were satisfied with the experiment with beer sales at the three ball parks: Lansdowne Park, Ivor Wynne Stadium and Exhibition Stadium in Toronto. I am a little curious to know if this policy is going to be extended to other places. For instance, are we going to see the

same thing at Maple Leaf Gardens? I am curious about that. I do not think there is anything especially wrong with selling a glass of beer at the Gardens any more than there is at Ivor Wynne Stadium. What is the difference? But I would like to know what your policy is going to be in the future. Are you looking at that area?

The next issue I would like to raise with you is the issue of lemon laws. We know that certain United States jurisdictions have lemon laws. When I speak of lemon laws I am not talking about the regulation of a particular grocery product, I want you to know; I am talking about legislation protecting the buyers of new automobiles that may be defective more often than otherwise.

As I understand it, Connecticut passed such a law in March 1983, California in January 1983 and New York in June 1983. I also understand that the Quebec consumer protection act has a lemon law part to it to protect the buyers of automobiles. The Automobile Protection Association in our province wants us to have such a law; also a member of the Legislature introduced a lemon bill in this Legislature earlier.

The new car warranties that we have in Ontario are not nearly enough protection, as we know. Quite often the cost of leasing another vehicle is more than it would be to pay for the repair of your own car yourself. To buy a new car, to have it a week and then have it go back into the shop and be under repair for one week, when one has to pay \$100 or something to lease another one if you require one for your work, is just a bit much; not to mention the fact that some really lemony cars may be defective a lot longer than a week.

I can remember the Firenza incident of the mid-1970s. People bought new Firenzas; some of them owned one for a year and hardly ever drove it because it would never seem to work. Those are very unfortunate events, of course, and I do think the consumer deserves to be protected.

If the province does not intend to move in that direction for the reason that you think it should be done on a national basis, I would like to know whether you have consulted with your provincial colleagues and/or the federal minister to determine whether or not you could implement such a decision on a national basis as opposed to doing it just in our province. Either way, I do think we should be moving into that area.

Earlier this week I introduced a private member's bill in the House concerning the

warranties on used cars. Quebec also has such legislation; the state of Connecticut and the state of Florida have used car warranty acts as well.

The principle of this, of course, is that when a dealer in used cars—I am not talking about individuals now—sells an automobile he has to provide a mandatory warranty for that car. I understand that it has been quite successful in other places. If one buys a used car today, a one-, two- or three-year-old Buick or some other relatively expensive North American automobile, it is understandable that you would pay in excess of \$10,000 for one of those used cars.

For someone to buy a \$10,000 used car and not to be afforded any protection, especially in certain cases where the dealer may even know that the car is defective and sells it to you anyway without repairing it, is not really affording the consumer very much protection.

I ask the minister to have a look at the private member's bill I introduced in the House on Monday with a view to having legislation like this in Ontario.

The bill I proposed would also require the dealer to have a record on the windshield of the car indicating the name of the previous owner, whether the car was ever used as a taxicab, police cruiser, rented or leased vehicle.

There are a few other items listed there that may provide very useful information to the consumer buying a used car, such as whether any major repairs were done to the car while the dealer had it. As an example, did the car dealer replace the engine on this car while he had it in his possession?

Mr. Chairman: Are you suggesting something like what the British have? They have a log book system that goes with each vehicle.

Mr. Boudria: No, that is not part of the suggestion. It is also an interesting thought, but it is not what I had advocated in the bill. The bill is before the House now and all members can have a look at it. I hope we will move into the area of protecting buyers of used cars.

I have another concern that has been raised in this province by many people, and that is the manner in which repair shops deal with their customers. We know the minister has been concerned with that, and we also know the city of Toronto and various other places have indicated they are not too pleased with the way the consumers are sometimes being gouged by operators who, upon occasion, perform major repairs that are not required.

I understand you described in your opening

remarks the auto squad ghost cars, autos which have small items that are defective, travelling around the province to experiment by taking them in for estimates, which range from a few dollars to a few hundred dollars for repairing very minor items. I guess it really goes to tell us there is a lot of work necessary in that field.

Again, some other jurisdictions have mandatory warranties on repairs of automobiles. I do not know whether that may be dragging it a bit far. It is difficult to administer these laws sometimes, and if you make a law that is impossible to administer I recognize, as you do, the only thing you may be doing is misleading the customer into believing he has protection he really does not have. I recognize that, but needless to say—

Mr. MacQuarrie: It could also affect the cost of the product.

Mr. Boudria: All warranties affect the cost of products, that is a fact. They may also affect the profit of the person selling them. Ultimately, that may or may not end up being the same thing, I am not sure.

It is not a hard and fast rule, as we both recognize. If it was the rule that warranties and consumer protection always increase the price of products, we would have no such laws at all in this province. I do not think anybody would advocate we go back to what we had at one time.

Moving into the area of repairs of household items, television sets and everything else, all of us, I am sure, have had constituents come to us with the story that they had their television repaired and were told it was only going to cost them, say, \$40. When they went to pick up the television, it ended up costing them, say, \$185, which is probably more than the thing was worth. We have a lot of cases of that in this province; and again, other jurisdictions have addressed this.

10:30 a.m.

New York state has legislation that says when a person or firm makes an estimate it must charge within that estimate. Maybe the member for Carleton East (Mr. MacQuarrie) would reply, "That would cause estimates always to be larger than otherwise in order to ensure that if something else is wrong with the product they will have enough room to fit it in." Of course one has to be concerned about that.

Mr. MacQuarrie: If an estimate overlooked some items that are subsequently discovered during the course of repairs, I would be inclined

to think there might well be an obligation on the person carrying out the repair to notify the person involved, but you cannot deny legitimate tradesmen the right to—

Mr. Boudria: Nobody wants to deny anybody the opportunity of doing business in this province.

Mr. MacQuarrie: In some of these cases, a person giving an initial estimate might run into situations he just did not foresee.

Mr. Boudria: That could be the case but nevertheless other jurisdictions—in the area of home repairs among others—have provided legislation to protect their consumers. At the present time, if somebody repairs something and charges more than you think it should be, you always have recourse to the ministry, but you will also be faced with a lien on whatever it is you had repaired. We know some of those other effects as well as those we see right now.

If I could go back to motor vehicles for a minute, you have established the automobile dealers' fund to replace the bonding provisions dealers had. I do not know if it is coincidence but in the last year or so we seem to have been seeing lengthy delays in the renewal of dealers' licences. It may be just a coincidence but there is more tendency towards—I would not want to use the phrase "dragging their feet" because I think your staff is probably overworked, so "dragging their feet" is not the appropriate phrase.

Is there a move somewhere in the ministry not to give those renewals as much priority now the bonding system is not the same? Are those two situations unrelated? Is it just a case of your staff being overworked?

I have approached you with a case in my riding in which a dealer sent a cheque to the ministry for the renewal of his licence. The government cashed the cheque about four months ago, if not longer, and the individual never did get his licence. He has now received a letter from your staff informing him: "It is okay to operate without the licence. Your old one is still valid because you sent us the cheque."

This makes me wonder why dealers are licensed to start with if they are not going to have them for half of the time. I wonder if you could address that issue as well.

The restraints you have placed on your staff may mean they just cannot manage with all the work they have. Now that we see some resurgence following the very slow business cycle of the past two years, it may very well be there are not enough people to do all the work. I am not

suggesting they are not doing their job but that maybe there are not enough of them to do it. In any case, you can respond to why these kinds of things are happening.

I would like to talk briefly of itinerant sales in this province. We have legislation, of course, concerning itinerant sales—the door-to-door vacuum cleaner salesman, and so forth. Most of the provinces and the territories have such laws as well, but I would just like to describe the differences between ourselves and our sister provinces.

In Ontario, consumers have two days to cool off and change their minds. As far as I know, those two days include weekends. You can correct me if that is wrong. British Columbia has seven days. Quebec has 10 days. Prince Edward Island has seven days. Newfoundland has 10 days. Even the Northwest Territories have four days. We have the shortest cooling-off period for itinerant sales protection for consumers of any province in this country.

Would it not be more reasonable to change that? Even if you took the average of all the other jurisdictions, it would change that number to five days. Five days is the average of the provinces in this country. I did not survey the United States jurisdictions to see how they provided consumer protection, but it strikes me that in Ontario, where we have the shortest, that could be improved.

Another area we could change in the itinerant sales protection is the minimum amount of sale. In other words, in this province the cooling-off period does not apply on a sale under \$50. If you buy something door-to-door which costs \$45, the cooling off period does not apply in Ontario, as I understand it. Therefore, the protection is less effective.

British Columbia's minimum amount is \$20. Saskatchewan's is zero. Manitoba's is zero. Quebec's is \$25, and so forth. Again, if you take the average of all Canadian provinces you have as a minimum an amount which is somewhere in the order of \$20. Ontario is the largest at \$50, so the consumers of itinerant-type sales products in this province are protected less than any other in our country. Will you be addressing that? Do you intend to change that legislation at some time in the future, minister?

Another area of concern I have is the issue of long-term or lifetime memberships. Everybody knows of the favourite health club that went bankrupt the day after you paid your lifetime membership. Everyone has had or knows someone who has had that experience.

I believe there was a dance studio incident that happened in 1982—I forget where that particular one was—and we have had a few Vic Tanny franchises that had that problem in Kitchener, St. Catharines, London, Sarnia, Hamilton, Burlington, Sudbury and so forth. I am not sure of the solution to the problem, but I will give you an example of what another province has done about this.

In Quebec the maximum length of membership in any health club or facility like that is two years, and the payment must be paid in two or more instalments. That is to ensure that someone does not take off with a larger than normal amount of money.

If you have a two-year membership, and you make someone pay once every six months, at least you cannot lose any more than six months at a time. Even if you pay one year at a time, that is the maximum you can lose. But to pay an excessively large amount for a lifetime membership in some health spa, dance studio, or other kind of similar scheme, and note the coincidence of those particular outfits going bankrupt right after you have finished paying, is rather difficult.

One of my colleagues, the member for Essex South (Mr. Mancini) who was the previous critic of your ministry, introduced the plain language bill in this Legislature. While of course, some lawyers—and I understand you are a lawyer, minister. Are you not?

Hon. Mr. Elgie: Yes. A nonpractising but licensed lawyer. I do not know what value you will pay me for my opinion on that. Will you set a price on that?

10:40 a.m.

Mr. Boudria: Some lawyers do not think too much of that particular bill. Maybe they just like the exclusivity they have of being the only ones who can understand certain things. I see the member for Carleton East grinning as I mention those things, and I know, of course, that he is a lawyer as well. I have nothing against lawyers, I want you to know. Some of my colleagues are lawyers as well.

Mr. Mitchell: Why don't you have anything against them?

Mr. Boudria: I don't know. Should I?

The bill my colleague proposed was to ensure that we have readable legislation—I mean readable contracts—for the consumers. I guess if we had readable legislation that would be even better, but that is another issue.

I brought into the Legislature the example of

two contracts I had with the same insurance company—I believe the company was Home Insurance—one for my car and one for my house. One of the two—I guess it was my car insurance policy—was absolutely impossible for me to understand. I recognize that English is only a second language to me; nevertheless, the language in it was very complicated. On the other hand, the house policy was very simple. Both were issued by the same company.

I can only conclude that one of those documents had probably been prepared to respond to another jurisdiction that has legislation that makes it impossible for them to get away with that complicated language. Therefore, they had to simplify it in that other jurisdiction, wherever it may be, and the consumers of this province have that particular benefit.

You did not address that, I believe, in your remarks, although I left 15 minutes early last Friday and may have missed a small portion of your remarks. Maybe you could indicate whether you intend to do anything in that area.

My colleague the member for Windsor-Walkerville (Mr. Newman) has on many occasions introduced a private member's bill dealing with the pricing of individual items that possess the universal product code. I understand there is another name for it in this country, but I will refer to it by that term because it is the only one I happen to remember at this time.

The private member's bill would have required that these items be individually priced so the consumer can be assured that the store is charging what it says it is charging, because unless you go by the shelves, write down the price that is on the shelf and compare it with your final bill, which is rather impractical, as you will understand, there is no other mechanism right now to ensure that the shelf price is actually what you are paying for the item you purchase.

This particular bill, as far as I can recall, did not pass. It was private member's bill, Bill 15, standing in the name of Mr. Newman. I understand that the member for Welland-Thorold (Mr. Swart) introduced a similar bill at some time in the past. Needless to say, there are a lot of people in favour of such legislation.

I would like to talk briefly about propane. You will recall that I brought into the House a sample of a hose that had been previously fitted on a propane-powered automobile. The hose was severely damaged from improper installation. It had been clamped with these twist ties, these small plastic ties. I rose in my place in the

Legislature and described to you how we had improper installations in this province, and you took offence at that.

You stood up and said: "Oh, no. Everything is fine. You are damaging the credibility of the industry." Four days later you made a statement calling for exactly those things I had asked you for, with one exception. I had asked you to have independent verification of the propane installations.

You did everything else, mind you. You said that, from now on, the plastic ties should be reinforced, that there should be inspections with a sticker on the windshield, as I had asked in my question, and all of those things. However, you went slightly short of having an independent inspection of those vehicles with propane conversions installed.

There is also a concern about the propane, even in some of the new installations. Mr. Austin, whom you and I both know, was in my office and described what I believe is the Lada propane car which has the fuel filler immediately above the exhaust pipe, so that any dripping fluid would fall on the exhaust. This is not the best situation, according to him. As a matter of fact, he qualified that as being extremely dangerous.

I am just wondering if you are going to be addressing yourselves to those kinds of things as well, because in your statement you only describe propane conversions and not new automobiles which may have installations that are not as good as they could be.

Mr. Austin had some remarks as well on those Ford products which have propane installations. However, I just cannot recall where he felt those were defective so I will not raise the matter any further.

I would like to talk a bit about the tenants' issues. I know we will be discussing those more fully as we go along. In the Legislature last night we passed Bill 128, the new pass-through bill replacing Bill 198. I indicated to you in the House yesterday that we were all disappointed that the Commission of Inquiry into Residential Tenancies did not bring forward both reports—the rent registry report and the full report—which we were expecting this fall.

I am not saying that the delay is unnecessary. We are not in a position to evaluate that yet. We only hope that whatever delay there is for the improvement of the report.

We sure wish that the report will not drag on for years, as other reports sometimes have. I can only refresh the minister's memory on the Kim

Anne Popen report, recognizing, I grant you, that it was a totally different situation—another report written some time back on a different issue. However, there has been unfortunate precedent where some people in this province have taken four and five years to prepare a report.

Maybe I will just leave it at that and hope that Mr. Thom's report will be quite good, quite complete and will assist all of us as legislators to provide better protection for tenants.

In discussing tenants' issues, I just cannot let the occasion go by without talking about my pet peeve, mobile homes. As you know, minister, there are some 50,000 mobile homes in this province. The residents of mobile homes are afforded very little protection right now under the Landlord and Tenant Act or the Residential Tenancies Act.

I have a very large mobile home park in my riding, which is a continuous pain. The member for Carleton East would know this; it is not far from the end of his riding. I am discussing the famous Bellevue mobile home park in Orleans which is the best example of everything which could go wrong in a tenant and landlord situation going wrong at the worst possible time all the time.

10:50 a.m.

For years, we have had a situation where the landlord there has allowed tenants to be without water for days. Because it is a central water system in the park, there is nothing tenants can do to get it back on. Upon occasions, they have even plugged into fire hydrants in order to get water in that park.

They have attempted to secure other lots for their mobile homes, but your colleague the Minister of Municipal Affairs and Housing (Mr. Bennett) does not really see mobile homes as a priority. There are so few mobile home lots, so little encouragement for municipalities to get into that area, that the amount of vacant spaces for mobile homes across the province is probably zero; there just is nothing anywhere. If one is stuck in a bad mobile home park, there is no solution at all to one's problem.

Further, if the park closes down right now, the protection you get as a mobile home tenant is just 120 days. I brought in a private member's bill in the House—the member for Carleton will recall this because he spoke against it, as I recall. The bill I proposed was to increase the period of notice from 120 days to one year. That is what they have in many United States jurisdictions—Florida, California and other

places—and they do not even have winter situations to contend with.

Can you imagine the situation if the owner of Bellevue decided right now, in December, that everybody must move by the end of March? How is one to move tons and tons of mobile home in the middle of the spring thaw?

I do not think it is possible to do that at all. It is hard to do it in the middle of the summer. It is a very difficult situation. Even if the soil is stable enough to bring the mobile home out, there is no other place to take the darn thing. Mobile home residents have a very difficult situation in this province.

I recognize that matters relating to mobile homes transcend more than just one ministry. But the Minister of Municipal Affairs and Housing is far more responsible for that inadequacy than other ministers. I believe the situation for mobile home owners indeed is very inadequate.

Mr. Mitchell: The municipalities have responsibility too, do not forget; they can zone for municipal mobile home parks.

Mr. Boudria: I know. The member for Carleton is saying that the municipalities have the responsibility—

Mr. Mitchell: Have some responsibility; I did not say all.

Mr. Boudria: Some responsibility, all right. I did not want to imply he said something other than what he did.

We recognize that is a fact. However no encouragement is given municipalities for each to take its share of mobile home lots in order to ensure that there is an adequate supply of them.

It is a perfectly good form of housing; there is nothing wrong with mobile homes at all, except the lack of laws to protect them. With the difficult housing crisis we have now, they could very well supplement the existing housing stock. However, with the way the laws are right now, I would not encourage anyone in this province to buy a mobile home because so little protection is afforded them.

It is very unfortunate, because it is a perfectly good form of housing. It is rendered unusable, as far as I am concerned, only by the inadequacy of present legislation.

Mr. MacQuarrie: There are an awful lot of mobile homes, though, where they own their own lots and there is no objection.

Mr. Boudria: That is no longer possible, as you know. Existing ones may remain but you cannot do that any more.

Mr. MacQuarrie: I know a couple of them that just did it.

Mr. Boudria: You cannot have any more than one mobile home on a parcel of land. You cannot establish parks anywhere unless it is zoned for them at the present time.

Hon. Mr. Elgie: You can get spot zoning for a particular mobile home.

Mr. Boudria: You do not need spot zoning if there is only one there.

Mr. MacQuarrie: In this case they bought a separate lot and put a mobile home on it.

Mr. Boudria: I would like to discuss briefly the issue of the censor board. As you know, our party has had an ongoing discussion of that issue. The Liberal Party has a women's advisory group and this group has come down quite strongly on pornography and the terrible social evil that it is right now.

I will be the first to admit—because you are going to bring it up, of course—that this is a complete about-face for some of us.

Hon. Mr. Elgie: Two-faced, I think it is.

Mr. Boudria: No, not two-faced; we are not arguing both sides at the same time. I must admit, though, that the issue has completely changed and I will be the first to admit that we changed our minds. However, if someone told us five years ago that we would have had some of these video cassettes that we have today, most of us would have said: "That is impossible. Nobody would produce that kind of trash." Yet today you can go to any store and come out with a bucketful of—

Mr. Mitchell: If I might interject: in the past, when we have dealt with this ministry's estimates, the invitation has been extended to this committee to see this; this stuff existed before cassettes. How many of us took the opportunity to get a feel for what was really being produced out there? I did, and I tell you frankly I could not sit through it.

Mr. Boudria: I had that experience as well not long ago, right here in this committee room, and I must say I had to leave on a number of occasions as well. It is not my idea of watching films, let me tell you.

Mr. Mitchell: Then you can have sympathy with the censor board as to what they must go through, the need for an expanded board and so on.

Mr. Boudria: Yes. The concern that I have, of course, is again the issue of those video cassettes

for sale, recognizing the difficulty that we have with the jurisdictional problem.

The only thing I can state is that it is indeed a very terribly offensive social evil that we are seeing right now and I would encourage all people to ensure that scenes of violence, especially, are not made easily available.

It is not really explicit sex that offends most of us; maybe 10 or 20 years ago that would have been the most important issue, but it certainly is not today. In comparison with some of those other things, it is really a small issue. The big issue, of course, is the abuse of people, violence and things like the sexual exploitation of children.

I have sat through the last year on the social development committee on family violence, studying the area of wife abuse and subsequently child abuse. Let me tell you that it is certainly a very terrible thing we have in our society. We should all address ourselves to it.

Maybe you could go over with me again why the cabinet has not amended the regulations for videotapes to be brought under the jurisdiction of the censor board. Is that strictly a jurisdictional problem or are you just in the process of gearing up for it, and can you do it on your own? I am still unclear in so far as that is concerned.

Recognizing that you may not have the necessary authority under the Theatres Act at the moment, can you enact the legislation which would enable you to if not censor at least classify some of the films? If you send your kid to the store and have him come back with a film that is called *Snow White*, you would think, of course, that you would see something for viewing by children, although I must say that sometimes that may not necessarily be what you would see. You almost have to look at the whole film yourself before you let anybody else see it.

That situation is very difficult, notwithstanding on which side of the issue one is. Even if there are people on the other side of the issue—I do not happen to be one of them—even somebody who would want the present distribution of cassettes to remain the same and for all those cassettes to be available, I still think people would want to know what is in them so they can at least choose well: is this suitable for one person or the other? That is again another important issue.

I will just go to a few other things here if you will be patient, Mr. Chairman.

11 a.m.

I was very happy to hear in your address that you are proposing amendments to the Vital Statistics Act and the Change of Name Act.

Recognizing that the Change of Name Act is under the jurisdiction of the Attorney General—is it the Attorney General?

Hon. Mr. Elgie: Yes.

Mr. Boudria: But, of course, it is a registrar general policy nevertheless. I am glad to hear that you are proposing those changes.

You will recall that I introduced two bills in the Legislature earlier this year—Bill 98 and Bill 99—to amend the Vital Statistics Act and the Change of Name Act.

I am sure all of us remember—it still exists, as a matter of fact—the Cynthia Callard case, in Ottawa. This case really expresses the inadequacy of present laws and how they do not reflect the 1980s. As you said in your opening statement, “Who would have predicted in 1940 that we would need those laws today?” I too recognize that no one could have predicted those kinds of things in 1940.

The fact is we do need them, and I would really encourage the minister to bring before the Legislature as soon as possible the amendment to the Vital Statistics Act. The amendment I proposed in Bill 98 is a simple amendment. Yours may or may not be similar, but if it is no more complicated than mine I am sure that all parties would give speedy passage for such a law, so that at least the ridiculous situation we have in the Callard case would no longer exist.

As far as I know, the Callard child is now five years old and still does not officially have a name.

Mr. Cassidy: That happens in my family too. I say, “Hey, you.”

Mr. Boudria: This case involves a separated woman who gave birth to a child. I understand she is a constituent of the member for Ottawa Centre (Mr. Cassidy).

In this particular case, when the woman went to register the name of the child, she was told that she had to register this child with the family name or surname of her husband. She indicated that she no longer lived with her husband and that in any case, the husband was not the father of the child.

This dragged on for a long time at which point the then minister—Mr. Drea, as I understand—went to the woman and said: “We will give you a second chance. You can give that child the name of her natural father.”

I understand she replied: “It is none of your business who that is. I am not living with that man either; I am living alone.” And frankly it is no one’s business who a woman sleeps with.

If we did not ask her that directly it was certainly implied in the approach that was given at that time.

Interjection.

Mr. Boudria: She is separated. She is not living with and has not lived with her husband. Frankly, one may think what one likes, but if that woman was single, she could give her child her name; if she is separated, why should she have less right?

It is really ridiculous, and I am glad to see that you are going to bring corrective legislation for that and the Change of Name Act, which as I understand it has a deficiency right now in the case of a single woman who gives birth to a child and gives the surname of the natural father to the child. If she ends up marrying someone else she can no longer change the name.

There is no provision for that in the present act, as I understand it. If that is the change that you are proposing, I am glad to hear that.

As I understand it, there are a couple more things wrong with the Change of Name Act. Not being a lawyer, I will not go into those in very great detail, but I am glad to see that you are addressing some of those issues and would encourage you to bring them forth in the House as soon as possible, especially the Vital Statistics Act in relation to the Callard case.

If you want to do that really soon, minister, I will give you my personal support and will endeavour to ask my colleagues in our party to give the bill speedy passage if it is not too complicated. If we could review the bill rapidly, perhaps we could pass it in a few minutes in the Legislature.

Maybe we could even do it before the House recesses at Christmas, if your legislation is ready or if it can be ready within the next few days.

I would like to touch on three more areas. I never thought I would speak for this long, but I am anyway.

The Ontario Racing Commission you discussed with us this morning. You did not talk about the greyhound issue in your remarks. Can you tell us what you are going to do as far as greyhound races are concerned? There is a lobby in this province right now against them. Personally, I do not think they are especially offensive.

However, I do think if greyhound races are established, we should have adequate funds or a method of securing funds from them for the protection of animals. Perhaps we could find some method of establishing a revenue-generating mechanism, a tax of sorts, in order to fund the

keeping of stray animals and stray dogs especially. As we understand it, in many jurisdictions in the United States, when dogs are no longer used for racing, people often dump them all over the place. People do that with dogs already. They dump them all over the place, as we know.

Mr. Mitchell: I do not think the federal minister has any intention of proceeding with any of this—

Mr. Boudria: I do not know.

I would like to know what you are planning to do, if anything, on the greyhound racing issue. I think all members have been receiving correspondence from the Ontario Humane Society. Their first position is that it should not exist at all. Their second position is that if it does exist, they would want to have a revenue-generating mechanism to help fund those who keep stray animals.

Mr. Mitchell: If I am correct, the letters we are getting refer to a proposed federal piece of legislation which I think you will find they do not intend to proceed with.

Mr. Boudria: That may be the case.

Real estate and business brokers: Maybe I should say at the outset that I do have some sort of vested interest, shall we say, if not a conflicting one. My wife is a real estate salesperson—I think you should change the wording in the act, by the way. They are called salesmen in the act. My mother also is a real estate salesman, according to your legislation. Therefore, quite often I am in a position to hear about real estate transactions over the dinner table, I want you to know. I also hear about all the other problems people in that business find themselves in from time to time.

The concern I want to raise with you today is the holdup in the renewal of licences for real estate salesmen. My wife does not have a licence right now. It expired months ago. The money was sent in, but the renewal never took place. I do not think her broker has a licence either. I was speaking to the member for Quinte (Mr. O'Neil), who is also a real estate broker, and he tells me he does not have a licence right now. His licence expired. He sent the money in and he never got his renewal.

Also, it requires a long time for new licensees to get a licence. That is a very difficult situation. The minister can appreciate this. A person goes to school for a number of months and is totally without income. They want to start to work once their course finishes, but they end up having to wait a number of months before

getting their licence. That is a very difficult situation for somebody trying to start in a new business.

I recognize that you require some of that time to check into that person, but some of the licences have taken very long to acquire. I can only conclude your staff is very busy. I have been on the phone with them on a couple of occasions. I tried to reach a person in the department who was responsible and the phones were always busy. After days of trying, I finally reached the registrar, who was very helpful. I think he said as well: "We are doing the best we can. We have a lot of work."

Mr. MacQuarrie: Was the application speeded up?

Mr. Boudria: The person did receive what he wanted shortly thereafter.

What I am trying to indicate is that with the resurgence in the real estate business, I assume you do not have enough staff to process all the work you have.

Mr. Mitchell: Much of that inspection is done outside the ministry.

Mr. Boudria: Not the renewals, for sure.

Mr. Mitchell: You were talking about the new ones.

11:10 a.m.

Mr. Boudria: There were two issues there—the new applicants and the renewals. The renewals, as I understand it, have to do with no ministry other than your own, unless there is some licence you feel should not be renewed. That may be the case sometimes. Not everybody in that business is entirely honest, I suppose, just as in any other business. There is probably the odd exception when a licence cannot be renewed. But when there is a situation as at present when all the real estate agents I know do not have a licence, perhaps you should generate the necessary staffing in that area of your ministry so they can do their work.

I do not believe the minister indicated in his opening remarks any plans to regulate time-share resorts in this province. This phenomenon is now starting here. It was practically unheard of not too long ago, but it is now developing into a form of recreational housing worldwide. I would like to know whether you are thinking of legislation in that area, if you foresee problems in the future and how you intend to address them. Do you have somebody looking at it and so forth?

I will also comment very briefly on kickboxing. The single issue raised by this ministry over the

past two years that got it into the most trouble, apart from the trust industry, is kickboxing.

Hon. Mr. Elgie: I do not mind that trouble.

Mr. Boudria: People from my area were so offended by what happened on that issue it was unbelievable. We brought thousands of letters of petition into the Legislature on that issue.

I recognize that in my part of the province there are quite a few kickboxers. Jean-Yves Theriault originally lived in Sarsfield, my home town. As the chairman knows, Jean-Yves Theriault is the world champion kickboxer. Many of my constituents are in kickboxing. It seems to be a very popular sport with us francophones—not that I would pretend to have the talent to do that sort of thing, but some others have and they are doing it quite well.

They feel they have been hard done by with this ministry. They feel you really gave them a kick to the head. You banned their sport without having any conclusive proof that it should be banned. You stopped it overnight. People who had booked events were driven right out of business. It was a very unfortunate set of events.

To start with, we felt there was no reason for you to do it. It was very unfortunate those events happened for little or no reason. Many people were upset by what you did. The kickboxing people felt the only reason it was done—and I am only expressing their view now—is that there was a strong lobby against it from other athletic groups, for example, the boxing group. They felt that group would lobby to ensure this new sport in competition with theirs was stopped dead in its tracks before it got too big.

The kickboxers felt the minister and his staff were responding to that lobby group rather than raising a legitimate concern. That is the view the kickboxing group expressed to me. I know Jean Therrien, whom the minister knows as well. I have also met with other kickboxing officials throughout this province. I will not say which one of them personally indicated that to me, but that was the view expressed by the kickboxing people in general. They were really displeased.

Hon. Mr. Elgie: Thank God that is not your view.

Mr. Boudria: I frankly wondered as well, but I will not say I fully subscribe to that.

Hon. Mr. Elgie: You do have a personal view on it, then?

Mr. Boudria: My personal view is that you should not have banned it for nothing. I think

the final outcome, after banning them for that period, was that you said maybe you should regulate it a little bit more, but it was all right. I know you did not call it a ban—

Hon. Mr. Elgie: Apparently, you read the study.

Mr. Boudria: You did not say “banned.” You used another word—“moratorium”—but it was really the same thing.

You referred to the travel industry compensation fund. My leader raised an issue with you in the House about the Chieftain-Shamrock collapse to which I still do not know the answer—what is the parent company?

Hon. Mr. Elgie: Air Bridge Corp. Inc.

Mr. Boudria: What was their involvement with the airline operators they were using, or that airline that is apparently owned by at least some if not all of the same people as Air Bridge Corp.? I wonder if you could enlighten us so that we could be assured there was nothing wrong or pre-arranged in the collapse of Chieftain-Shamrock.

Also, could you give us more details as to how the compensation of these people will take place and the length of time you predict they will have to wait to get their money back? How much will they get initially? How long will it take to get further instalments and that kind of thing? Are they going to get it all right away? Perhaps you could enlighten us as to what is going to happen with Chieftain-Shamrock.

There are a few issues that I would like to raise with you. No good Liberal could let this occasion go by without talking a bit about the trust companies. While I am brand new in this area of government policy, that is, the trust companies, it is evident this has been one of the gravest crises that has hit this government over the past few years. Regardless of who thinks who is responsible in the thing, obviously it is one of the most serious things that has happened in a long time in the financial affairs of this province.

I heard the remarks of the witness who appeared before us last week, one of the preferred shareholders of Crown Trust Co., and he said—I am paraphrasing—that he would never invest in a trust company in this province again. I find that very unfortunate. It is very unfortunate to see that kind of reaction from investors who have invested in preferred shares in what they believed was a very stable financial institution. They do so in order to get a retirement income and then see their life-long investment

disappear and see themselves as senior citizens with nothing left.

On top of that, he got a letter from Dennis Timbrell, his member of the provincial Parliament—or, rather, member of the Legislative Assembly; he is an MLA, most of us are MPPs—telling him: “Well, it is sort of your tough luck because when you invest in shares in a company that is not the same as a deposit. Your investments like that are designed to make large profits,” and that kind of stuff. We all know, of course, that is not true.

People who invested in the preferred shares of Crown Trust really felt that they were buying something that was almost as good, if not as good, as treasury bills. They thought this was as solid as the Rock of Gibraltar. They were of the opinion that they really had stable investments; now they are left with little or nothing.

Mr. MacQuarrie: On the second page of the letter, Mr. Timbrell did go on to indicate what was being done. He made a general statement early in the letter. I think at that time he was referring to common stocks rather than preferred shares. I hardly think it is fair that you should raise it in this context.

Mr. Boudria: The constituent in question was not too pleased.

Mr. MacQuarrie: The constituent admitted here at the hearing that he was pleased with the letter he received from Mr. Timbrell.

Mr. Boudria: He was?

Mr. Chairman: It is true.

Mr. Boudria: Well, he is the same person who told us he will never invest in a trust company again. He lost everything he had.

11:20 a.m.

Mr. MacQuarrie: He did not tell the committee that.

Mr. Boudria: Yes, he did. Certainly, he did. There are all kinds of other sad cases involved in this as well. I will not go into other details on this issue. My leader is far more knowledgeable about these things than I am. He is our party's resident expert. He will be appearing before this committee later when we get to that vote, and he will be discussing it at length with all of us.

Mr. Gillies: He should take the opportunity to counteract some of the panic he caused.

Mr. Boudria: I do not know what that interjection was about, but I still think our leader was at the forefront of this issue. He does not deserve the kind of criticism you are directing at him now.

I want to discuss the issue of franchise laws very briefly. I understand that a report was prepared for your government a long time ago, about 10 years ago, on this issue. As yet, we have no kind of legislation in this province concerning franchises. There is only one province in this country that has a franchise act; that is Alberta.

Some jurisdictions have very complex franchise legislation. Ours has none. With the growing popularity of the franchise industry, there is an increase in the accusations placed by franchisees against the people who sold them their franchise. I can only relate to one example that I saw in a *Globe and Mail* article in September where one bakery outfit was selling these franchises and nobody ever realized a profit anywhere near what it was alleged they would receive. That kind of practice seems to be developing here and there in that industry.

Probably most of the franchise industry does not require any kind of very strict legislation because the firms are operating very successfully at present. Some of them have done so for years. I guess the original franchisers and franchisees are gas bars. They have developed many more, from places that sell carpets to our favourite kind of hamburgers in this world and all the other kinds of thing.

Some jurisdictions have felt there was a need to have franchise laws. California, as I understand it, has laws regarding the renewal and trading of franchises; it has quite extensive legislation and regulation concerning the way franchises are sold. As I understand it, the Alberta example would do little more than have the Ontario Securities Commission deal with these matters in the same way that they deal with the issuing of shares. In other words, we would want a franchiser to issue a prospectus and assure us that the information he would be distributing to his people would be fair and accurate to the best of his knowledge.

There are other issues at stake concerning the revocation of a franchise and how it is done. There is the issue of revocation for noncompliance. For example, if you operate a bunch of hamburger restaurants and one of your operators always keeps his place in a mess, you do not want that bad reputation to affect the others. There must be a mechanism in place to straighten out these kinds of things.

On the other hand, it should never be a situation where the franchiser—is that what you would call him?—is in a position to revoke the franchise of his franchisee for a reason of little or no importance. I am wondering if you could

elaborate on how you see this developing. Of course, there has been a private member's bill to that effect in this Legislature, introduced at some point in the past by the member for Etobicoke (Mr. Philip).

Mr. Cassidy: Another New Democratic proposal, yes.

Hon. Mr. Elgie: A matter of opinion, Mr. Cassidy.

Mr. Boudria: Look, I am planning to do so in my private member's bill. It is six weeks that I have been the critic.

Hon. Mr. Elgie: I am glad there are no politics going on in here.

Mr. Boudria: There is no place for politics in the Legislature.

Mr. Gillies: No. Keep it on the streets where it belongs.

Mr. Boudria: As I understand it, the private member's bill that was introduced in our Legislature in the past was a mirror image of the Alberta example and did not go into these other details.

There are probably a lot more areas of your ministry that I did not touch than the ones I did, minister, but things being the way they are with the limited time that we all have at our disposal, I will conclude my opening remarks at this time. I thank the minister for taking the time to listen to the concerns I have raised on behalf of our party. I would hope he would respond to some of those concerns with a view to improving the ministry and to making things better for all the residents of our province.

Merci beaucoup, M. le Président.

Mr. Chairman: Thank you very much. We will now hear from the NDP critic, Mr. Cassidy.

Mr. Cassidy: Mr. Chairman, perhaps I could ask if the committee will be sitting until 12:30?

Mr. Chairman: Usually one o'clock.

Mr. Cassidy: Okay, that is fine. I just wanted to know, to try to get some handle on the amount of time that I will have to spend.

This is not a new experience, but it has been about six or seven years since I was a critic for a major ministry and took all of the estimates through. When I took on the job of critic for financial and commercial affairs, it was because of the concern that my party has about the trust companies. I did not realize that in the process there would be so much else in the ministry. May I begin now?

Mr. Chairman: Mr. Cassidy, before you begin, the minister has indicated he has a problem. He

has to be in cabinet at 12:30 and I was wondering whether we could have an agreement of the committee that we would go until 12:30.

Mr. Cassidy: If the minister has to go, then at that point I would certainly make no objection.

Hon. Mr. Elgie: Thank you very much.

Mr. Cassidy: Mr. Chairman, as I said, I had really never quite grasped, as I have in the last couple of weeks, the scope of this ministry. The minister had his line, I have my line as well, which is that it is everything from dividend stripping to video porn.

I have a number of subjects I want to raise with you, minister. I will just outline them first and then I will start to go through the list because it is lengthy. I will try and be as direct as I can.

My colleague, Mr. Swart, will be coming in to talk specifically about consumer matters for which he maintains the major responsibility in my caucus. Mr. McClellan, our housing critic, will be here to talk about rent review and tenant protection. If it gives you any solace, it is a bit like Wayne Gretsky; we are triple-tuning in terms of your responsibilities.

Mr. Chairman: Mr. Swart is not going to be having any opening remarks. You will be making all the remarks?

Mr. Cassidy: I am not sure how we will handle it, but I think it would be appropriate perhaps to allow Mr. Swart to make some remarks on the consumer matters. He will not be coming right after me, if that is what you mean.

Mr. Chairman: Yes.

Mr. Cassidy: Since I have a task force travelling on Fridays, I have suggested to him that he might come in and make those remarks on a Friday when I have to be absent; but that will have to depend on the committee's acceptance of that.

Mr. Chairman: That is fine, Mr. Cassidy.

Mr. Gillies: Not to be disagreeable, I am quite happy with that arrangement, Mr. Cassidy, as long as we are not going to have three full opening statements. I am just worried about enough time for questioning from all members of the committee during—

Mr. Cassidy: We understand that. I certainly would be able to finish by one. I am not sure if I can finish by 12:30, but I will do my best. Both Mr. Elgie and Mr. Boudria have taken a bit longer than that amount of time.

11:30 a.m.

I apologize for not being here earlier. I had some students from Iroquois Falls to meet, and Mr. Boudria is going to meet with them now in our responsibilities for Franco-Ontarian matters; that was set some time ago.

I want to cover these issues: trust companies; the general question of financial regulations; the question of disclosure; the rent questions, very briefly; the situation of employees at the Ontario Share and Deposit Insurance Corp.; Sunday store hours; the Change of Name Act mentioned by Mr. Boudria; consumer protection in terms of the purchase of new cars, the lemon-aid act; video pornography; affirmative action, in particular with respect to the Liquor Control Board of Ontario; a plea for small business in respect to the opening in Ontario of brew pubs, which has been successfully achieved in British Columbia; some remarks about lotteries; and I want to talk with some concern about pension regulations in Ontario.

That is a fairly hefty list, but I thought I would put that at the beginning so that you would know where I was going while I was getting there.

It is interesting that eight people in the Ministry of Consumer and Commercial Relations are responsible for regulating stuffed and upholstered articles as compared to 11 people whose job it is to regulate the trust and loan companies, despite the size of their deposits and the way in which they reach into the pocket-books of so many people across the province. I was going to say the minister is a bit of a teddy bear and that may explain it.

Hon. Mr. Elgie: What a sense of humour. You are terrific.

Mr. Cassidy: Thank you. I am not sure whether you are happy in your ministry, and I am not sure whether that accounts for some of the problems that I think are here. I thought about making all kinds of allegations and suggesting things that you should do with your life after politics but, on a personal level, I have too much respect for you to say those kinds of things.

I do have to say though that you are the regulator. Your ministry is responsible, as you have said, for more regulation than probably most of the other departments of government and the ministries combined, and Tory regulation just simply is not working or does not work in the province. I think there are some flaws in administration and in the commitment to actually implementing some of the legislation for which your ministry is responsible.

The fact that, as the Morrison report points out, \$300 million raised between the spring and fall of 1982, by Seaway Trust Co. and Greymac Trust Co. and then at the very end by Crown Trust Co. and the related companies, was essentially lost and had to be met by taxpayers or through the Canada Deposit Insurance Corp. is a sign of the failure of Tory regulation.

It seems that the government is soft on business and that you hang back, especially when government chums are involved. We get into trouble when names such as Mr. Cowper, Mr. Clement, Mr. Randall, and that of the brother of a Conservative candidate are involved. In the case of the trust companies, people seem to have worked on the basis that the world has not changed since 1948 and the consequence has been a disastrous one, both in terms of the name of Ontario in financial regulation and also in terms of the financial losses the public purse has incurred.

I get the feeling that instead of being prepared to innovate and lead, in the area of the trust and loan industry in particular, the practice of the ministry has been to sit back, to react and to close the stable door after the horse has fled. I would say that has been the history from the days when, as a journalist, I covered the Atlantic Acceptance Corp. hearings.

It is notable that back in the late 1960s the government of the day had the good grace to form a royal commission to try to work out what was happening. Not only has no royal commission been appointed in order to work out how the devil \$300 million would get frittered away because of inadequate regulation, but I have never seen such slender attention paid to an issue of this importance in a ministry by any minister at any time in my career in the Legislature.

The annual report which came out on October 28 is, again, flimsy. It can only be described as that. It contained a total, by my reckoning, of 14 words about the trust companies affair. The minister's own statement, which gave two pages to stuffed and upholstered articles, mentioned the trust companies affair in passing in two paragraphs.

When he went into the operation of his ministry, he gave no details at all about the operation to the loan and trust companies branch. He failed to do this despite the scathing indictment of the administration of the loan and trust companies' operation in the internal review, which I think is a commendable review regardless of the fact that it is an internal document. Neither did he answer in any respect at all the

very clear indications in that internal review and in the Morrison report that all is not well in the entire financial institutions branch.

It seems to me that at the very least the minister should have anticipated questions like that, rather than dismissing them as being of no consequence. In January, when we come to consider the white paper—in this committee, I believe it is, and I will be here—we presumably will be looking at policy questions and I hope looking forward. However, there is a function for accountability, at least there ought to be in this Legislature.

When one looks at the contracts and the actions of people like Mr. Gordon, Mr. Walker and so on, I am not sure whether accountability is understood by the government. However, it does seem these estimates are the place where the inadequate administration and the failures of the regulation of this ministry and its regulators should be reviewed and where the minister should account for that.

I will pause for a second because I did mean to say a word to all of the staff here. I would like to thank the people here, because the general public has a tremendous interest in the affairs in which the minister and I are involved. I believe most of these people are from different branches of the ministry, and the fact they are so numerous reflects the range of the minister's responsibilities. I hope they find this either interesting or entertaining; however, I wanted to welcome them and acknowledge their presence.

I will talk specifically now about the financial institutions division and about the loan and trust question. I am struck by the fact that between the 1982-1983 and 1983-1984 estimates there is a cut in the resources being made available to the financial institutions branch, once the special funding which went to outside chartered accountants and others involved in the trust companies affair is disregarded.

I think the figures are here—I have not calculated them exactly; the minister can come back on these, or we can raise it when we get into detail. However, once we deduct the \$6.5 million or thereabouts which was spent on services related to the trust companies affair in 1982-83, the minister's response to the crisis of regulation has been to take resources away from that division. He has made incredible proposals about extra administration in the white paper for some time in the future but he has taken resources away from that division rather than put them in place. I would say that is surprising, at the very least.

When I looked at the priorities of this ministry I was also struck by the fact that in the financial institutions branch, loan and trust companies are considered to be so unimportant that more staff is diverted to the area of cemeteries regulation. The chief cemeteries officer ranks above the chief examiner for loan and trust.

I am not sure how to explain that. I think it has probably been there for a very long time. However, it is symptomatic of the rather, shall we say crusty administration of financial institutions that this would still be the case. It is also symptomatic in that there has been no response to the marked change in the behaviour of trust companies beginning, I suppose, some time in the latter part of the 1970s.

11:40 a.m.

I will come back to this in a minute; however, when you look at the question of the administration of the financial institutions branch in general, if the problems were as myriad as is suggested in the internal review, then one has to recall that the registrar of loan and trust companies is also the executive director of financial institutions; and if his administration in the loan and trust companies is paralleled in other areas, then God save us from any crisis that might break out in terms of regulation of insurance companies, credit unions, automobile insurance and the other areas for which that branch happens to be responsible.

I cannot believe that the other areas would be driving and thriving in terms of their administration when loan and trust companies was such a legislative and regulatory backwater.

Let me go back now to what I said before. According to the Morrison report, Seaway Trust Co. and Greymac Trust Co. took in \$300 million between June and December. Crown Trust Co. took in \$100 million in order to raise money for the Cadillac-Fairview Corp. Ltd. and the Daon Development Corp. loans.

However, so anxious were your officials, or you, Mr. Minister—I do not know whether you were informed or not—not to rock the boat, that all of this went on and nothing was done, or at least nothing effective was done. I think that one of the responsibilities of this committee is to try to find out who is responsible.

It would appear from the fact there have been no firings, no disciplinary action of any kind, no suspensions, that you and your senior administrative officer, your deputy minister, consider that the people in the branch are not responsible. Under those circumstances, when \$300

million or \$400 million in public funds goes down the drain, then who is responsible? Who is accountable? How, if at all, Mr. Minister, do you propose to indicate that you are accountable?

When the Falkland Islands were invaded, Lord Carrington—who was then, I think, the foreign secretary—resigned from the British cabinet. It turned out that he had been raising the issue and had been doing things to try to ensure that the Falklands would not be left in a vulnerable state. He was certainly blameless, from all objective kinds of observation, in terms of what actually happened there. None the less, he said: "My people blew it and I am getting out." He was both the most attractive and one of the most competent members of the Thatcher government.

That is the traditional concept of ministerial accountability carried out with grace, carried out with dignity and it helps to lend integrity to the system. Somehow it never seems to happen in this province. Since you, Mr. Minister, do not feel that you are accountable, or have not felt that up until now, then I go back and ask what actions are being taken internally within the ministry. Is anybody being held to account?

Goodness, if a clerk takes a few pens and happens to be caught, he can be fired in Ontario. From time to time people have been dismissed from jobs, which they may have had for years, because of minor peccadilloes, because of things which perhaps had been tolerated but then people have said it was no longer acceptable and they were caught. That happens. So if somebody is responsible for the loss of \$300 million to the people of Ontario and of Canada, surely they should not be let free or just left alone if you are so tough on minor functionaries within the government of Ontario.

You will not fire the chief officer responsible, the registrar; and you propose a new scheme, which—and we will come to that perhaps in January—I am afraid is worse, rather than better, than what is here.

I looked, as well, at the resources that were available. Between 1982 and 1983 you have cut back staff in the financial institutions branch as a whole. There were 91 positions as at March 31, 1982, of which 88 were classified. That went down to 85 classified and five unclassified in March 1983.

In the trust and loan branch there is apparently no change. However, it is interesting that there were 11 staff in the trust and loan area, of which nine were examiners, and their responsibility was to look after and to oversee 29 loan

and trust companies. It is not such an overwhelming responsibility.

I realize those companies are large. I also realize that a number of the people operating them were shifty, but given there were a number of firms which any rating system would probably have indicated were carrying on business reputably as they had done for many years, those nine examiners really were in a position where they could have focused most of their attention on 10 or 12 of the smaller, or the more dangerous, or the more vulnerable trust companies and seen what the devil they were about. It is unbelievable that they were unable to do more than they actually did.

Minister, I have been in the unhappy situation of being recipient of a great deal of correspondence from Mr. Rosenberg, who seems to feel he has been aggrieved. In one sense that is true. There have been no criminal charges laid, despite the actions for which he was responsible. A number of things are working their way out through the courts. I see that he lost a case the other day over a \$500,000 deposit in relation to some deal in Florida.

It may be that either through the state of the law or something else, it will wind up that you will do nothing but leave those people stripped of their companies. They are obviously guilty of appalling mismanagement. It does not border on fraud, but certainly, it seems to me, by most other standards of the law it would be fraudulent. Their actions certainly would not be permitted under the Ontario Business Corporations Act.

It is interesting that not only were the regulators lax in the case of the loan and trust companies, but that the duties of directors under the Loan and Trust Companies Act fall far short of the duties required of directors for companies generally in Ontario. They are not spelled out.

In fact, the common law provisions, according to my good friend the member for Riverdale (Mr. Renwick), are not spelled out in the law. The duties of disclosure, the duties of informing the public about material changes in their affairs and almost all the major deals in which the Seaway-Greymac-Crown group were involved would be considered material. Yet there was no such duty of disclosure.

Even the regulators were not very sure what the devil was happening, and certainly the public had no way of knowing at all that the standard of disclosure, in terms of actions by the regulating authorities, are much stronger when

it comes to public companies under the Ontario Securities Commission than they are for the loan and trust companies.

Nothing was done. You came along, you started to lock the stable door, but only after rather than before, by means of the legislation that came through last December.

That is about all I want to say about Mr. Rosenberg. I think that he and his colleagues represent the underside of the capitalist system.

As you know, minister, I have been spending a few hours studying business up at York University in order to know that side a little bit better. You probably know, as well, that I was a financial journalist at one time, so perhaps more than some socialists I can claim to have some acquaintance with the system we have in the province. It perhaps is not as bad as sometimes we say in our rhetoric, but nor is it as good, minister, as some of your colleagues say in their rhetoric.

Certainly the kind of adulation which is paid to free enterprise by you and by some of your colleagues just does not wash. There is scum there. There are people who are indulging in scams, there are people there who are prepared to exploit opportunities which exist in the law and any laxness in regulation.

Some flexibility obviously has to exist in any system. I am prepared to acknowledge that you cannot regulate everything. None the less, I think that it would be at least refreshing if the government were to abandon some of its uncritical adulation for the system of capitalism we have in the province and recognize that it can go seriously awry at times. It is not all that it is cracked up to be. There is a definite need for public intervention from time to time in order to protect the public, if the capitalist system is to continue, from the system's excesses, and I emphasize excesses, not successes.

11:50 a.m.

If you, minister, and your government are not going to do that, then in the end you will contribute to the downfall of the system, because people will simply rise up in outrage. Alternatively, the system itself will collapse because its credibility is undermined because of sharp and unscrupulous operators like Leonard Rosenberg, Mr. Player, Mr. Markle and their colleagues.

Once again, these are no two-bit operators. While the ministry fiddled on its violins, \$300 million in deposits was raised. That is what was happening as far as the regulators were concerned.

I was struck while reading the minister's statement about the way in which regulators

under the Business Practices Act have the power to march in, seize the books, freeze the bank accounts of travel agents, motor vehicle dealers and a whole range of other basically small business enterprises that require registration from the ministry.

In other words, when small business is involved, the ministry is prepared to be tough. As a relatively recent critic, I do not know yet whether it is adequately tough or not. I have some questions. None the less, a large number of inspections were made and a substantial number of charges were laid. Those powers were used.

But when it came to the big boys, the boys who mingle at the Albany Club with this minister's colleagues in the cabinet, he is not prepared to do the same kind of thing. It is a double standard, and that is one of the things of which the Conservatives have often been accused. I think it is an appropriate charge.

Let me turn now to the question of administration.

Mr. MacQuarrie: Mr. Chairman, I am a little bit puzzled by some of the earlier remarks of the member for Ottawa Centre. Was he suggesting there is no opportunity for a scam at all in a socialist system?

Mr. Cassidy: No, I am not suggesting that. I am suggesting that here is a failure of regulation. The minister does not even bother to say a word about it in his statement or in the annual report of his ministry. He is trying to fob off the Legislature and say these matters will be studied when we are looking forward to future regulations of trust companies.

Mr. MacQuarrie: You were also speaking about the disadvantages of the system, that the system was permitting it. You seemed to suggest the opposite side of the pole, socialism, held some of the answers. At least this is the interpretation I took.

Hon. Mr. Elgie: That is right. Northern Union Insurance in Manitoba never happened.

Mr. Cassidy: I am saying government has to—

Hon. Mr. Elgie: It did not really collapse, it just looked like it did.

Mr. Cassidy: I am saying if one is in a position of regulation one must be prepared to be tough. There are too many teddy bears around this ministry.

The reason I am suggesting this may well be the case, is because of the kind of associations of trust companies with the old-boy, Tory-blue establishment in Ontario. After all, the distinc-

tion between this gang and people like Mr. Jackman and other people who are considered to be okay is that the others have not got into trouble yet. They have built a reputation as reputable businessmen.

None the less, there has been far too much of these kinds of things going on with the peddling of multiple-unit residential buildings. As the minister knows, that was going on for a long time. The deals in which Greymac and Seaway were involved were all dress rehearsals for the final act, which was the deal with Cadillac Fairview properties. But the principles on which that was based, the riding up of the value and so on, were exactly the same as in a number of earlier cases. I will come to that in a minute.

Mr. Gillies: On that point, Mr. Chairman, may I interject? Is the member suggesting that the only difference between a businessman like Mr. Jackman—I assume he means Hal Jackman—and some of the people we discussed in the affair of the trust companies is that they got caught?

Mr. Cassidy: No. Mr. Jackman, however, controls a couple of trust companies. He has a very large personal stake, a controlling interest. One of the reasons all of this has occurred has been the fact that trust companies have been allowed to become the plaything of wealthy financiers. This is unlike the regulation of banks in this country, for example, which requires a much broader base of shareholding.

Mr. Gillies: I appreciate the system as it stands can be subject to criticism. I just wanted to clarify that the member was not suggesting there was anything untoward in the business conduct of Mr. Jackman.

Mr. Cassidy: I have no evidence there is.

Mr. Gillies: I would mention another point, in fairness to the minister. This committee did spend a good week debating the trust company matter in consideration of the bill just before these estimates started. I think it was the understanding of Mr. Renwick and others that we had a very thorough discussion then.

While it would certainly continue in the estimates, that would certainly mitigate your point that perhaps it was not profiled as highly in the estimates speech that was made.

Mr. Cassidy: That is fine, that was not my understanding. I think this is the appropriate place to raise it. I regret that I was not present for that.

Minister, the internal review of the management of the loan and trust section indicates that

it was disastrously badly managed; I repeat that, disastrously badly managed. One of the questions I have is, given that degree of management incompetence what action does the government take?

The government of Ontario has generally had a relatively good reputation for the quality of management within the civil service. Certainly, I think it has avoided the proliferation of bureaucracy that one sees in Ottawa and the federal government. None the less, when we get down to it, we only actually have an internal report on the operations of one particular group; and not a big group either, this is only 10 or 15 people.

I cannot believe what I read. I read it to my 19-year-old son as I was driving to a meeting in eastern Ontario. He said, "My God." We were laughing all the way, except that we were crying too.

The management information system is a mess. The reports prepared within the loan and trust section are neither useful nor on time. They are months overdue. There is a table that indicates that out of something like 20 reports that were required to go through all of the stages, only four had actually gone through in the sample that was taken by the internal reviewers.

Late filing has been consistently tolerated. The reports of the registrar of the loan and trust companies have not been issued. Trust companies have been only inspected when it is convenient to them. There were never any surprise visits. You always called up first so they could get their affairs in order. The training was inadequate. Examinations of loan and trust companies were inappropriately staffed at a level that was too junior. In other words, they were sending boys to do men's work, or girls to do women's work.

There was no strategic planning to recognize the changing trends. In other words, the loan and trust companies branch, the ministry as a whole, failed to see what the devil was happening in the area of loan and trust companies.

You mentioned in your statement, minister, the growing complexity of the loan and trust company business. That did not just happen overnight, that happened over some time; but the regulators did not respond to that because there was no strategic sense about what the devil was happening.

There is no policy manual, no standardized management procedures. These are just summaries. Some of these things have been

mouldering in the files for 10 years or more. There were no controls to prevent special treatment of certain clients being regulated.

The compliance standards, the ratios, the reporting requirements were out of date or irrelevant. There were no performance standards. The Ontario government's management by results directives were not only ignored but it appeared, from what I read here, they were sitting in the files for seven years without even being looked at.

There is no senior management committee. The organization was ineffective. Salaries have been allowed to fall \$10,000 below the competition, which certainly affected morale and perhaps also affected the ability to hold competent staff in that particular area.

The staff only spent one half of their available time on what they were meant to do, and the internal review was unable to establish what those examiners were doing with the rest of their time.

I do not know what you say to that, minister, and you will have a chance to respond, but if the staff is doing only half of what they are meant to be doing—there is obviously going to be a Christmas party and things like that and there are things that have to be done internally that would take away from the direct regulatory job—but both internally and externally they were only spending half the time on what they were meant to be doing.

I am sure the internal review was seeking to be generous and was recognizing that desk time could well be related to what they were meant to be doing.

12 noon

Those are the conclusions of the internal review in terms of management. I have to suspect that is true for the entire financial institutions branch, because the financial institutions branch was run by the same fellow who was a sort of Pooh-Bah of that area in the sense of the number of different responsibilities and titles which Mr. Thompson had.

Were there any reasons why, with all of that, something might not have been done? We are not talking about a big area; there are only 29 companies; there only half a dozen which were causing grave concern at any particular time.

The evidence has been that there were frequent contacts, that the registrar and his staff knew that something was amiss and that they were seeking assurances and that kind of thing from the management of Seaway and the management of Greymac.

None the less, Mr. Chairman, one has to ask oneself where the devil were they as the whole situation got worse and worse.

October 7: To take Crown Trust, since it happens to come up first in my notes, the Ontario Securities Commission had been following the Crown case because of the efforts by Mr. Burnett to acquire the controlling interest, which I think was held by Izzy Asper and the Canwest group in Winnipeg. That may have led them off the trail, I am not sure, because in fact Mr. Thompson is quoted in the *Globe and Mail* on November 16 as saying, "Moreover, the province's great concern was the accumulation by Toronto lawyer Joseph Burnett of 34 per cent of Crown Trust shares, constituting effective veto power over the firm's management."

He also said there was no authority at the time to block Mr. Rosenberg's acquisition of Crown Trust on October 7.

Because your regulators were looking for one thing, they failed to see Mr. Rosenberg come in and just simply snaffle that company and wreck it in the course of a matter of weeks.

If Mr. Rosenberg had simply been a businessman with no previous record in the financial area perhaps it might be easier to understand the failure to respond when Crown Trust was taken over. The fact is, however, that Rosenberg and Player and Markle and their various companies had been intimately involved in a tremendous series of deals of which one assumes the regulators had to have knowledge through the attention they had been paying Seaway and Greymac.

The alarm bells should have been ringing all over the place, and instead of that nothing was done until in fact the Crown Trust Co. was taken over. It had a fine reputation. It was a very conservative, probably too conservatively managed, company; but anyway it was a widows and orphans type of place, the type of place where the matrons of Rosedale and Rockcliffe and North Toronto could feel secure with their husbands' estate.

None the less the alarm bells did not ring and the rape was consummated by Mr. Rosenberg.

It is interesting to me, incidentally, that the one area the Morrison report felt most strongly about was that the registrar should have powers to cut back on access to deposit insurance through the CDIC, yet that is the one area which is ignored in the white paper. Yet that, more than anything, if publicized would, it seems to me, be a clear signal to the public, "Hey, hands off while this situation gets sorted out."

I have kept some files on this. This is the *Financial Times* from August 29, 1983. They point out that the Ontario government was frustrated by the lack of powers to stop them—but then they say that, "Although the federal government has the power to terminate an institution's membership in CDIC after receiving a request from provincial regulators, Ontario sources"—and I admit they are unnamed—"say they were unwilling to let the federal government rule on a provincial matter."

"Murray Thompson didn't want that decision left in the hands of federal regulators," says one source. "It was Ontario's problem and Ontario wanted to find the solution."

That is pretty damning. In other words, the pride of one your officials, minister, may have been what led to \$300 million being raised by Seaway and Greymac over the six months before they were eventually collapsed, and then to their having to be bailed out and paid by the people of Ontario and of Canada.

It says here in the *Financial Times*, "Ontario regulators say that halting the deposit insurance would have led to the collapse of the companies and shaken consumer confidence in other financial institutions."

That is exactly what happened, only it happened \$300 million later than it might have if the ministry had moved in earlier.

I also suggest the ministry had ample evidence of the need to intervene by that time. If there had been swift action by the government after the collapse of trust companies with assets of \$200 million, it would have had less of an impact on consumer, financial institution and investor confidence in Ontario than what eventually transpired.

I acknowledge, of course, that if the government moves in it creates trouble for the company, but that is where it has a responsibility. If a company acts in the way those companies were acting the government must conclude at some point—and I suggest a lot sooner than it did—that the only alternative is to move in. This is necessary if investor confidence in the integrity of the system is to be maintained.

I jotted down some comments from the Morrison report, including dates, about things that should have been ringing the alarm bells. I do not have specific references, they were just rough notes from the Morrison report, but here we have Seaway in June 1982 with a guaranteed investment certificate rate of 17.5 per cent. They were at the same time making loans in certain cases at 14 per cent or less.

In other words, they were actually losing money, comparing the GIC rate and the rate at which they were lending.

In September 1982, property was bought for \$1.4 million. Seaway Trust promptly issues a mortgage for \$1.9 million.

Dollars do not grow on trees. There is an efficient market hypothesis, if one wants to be technical about it, which says the alarm bells ring if there is a pattern—and there was a pattern—of consistent overmortgaging in relation to values that have been set in the market. People are not such fools that there will be a whole tribe of them out there clamouring to sell their property at subnormal prices so as to put dollars into the pockets of people like Player and that gang.

October 1982: A \$3-million mortgage for the Pelham school, a school which at that time had a handful of pupils from Hong Kong. Any widow or orphan having had a look at that deal would have had alarm bells ringing in her mind about where the financial substance was to justify that deal, school which at that time had a handful of pupils from Hong Kong. Any widow or orphan having had a look at that deal would have had alarm bells ringing in her mind about where the financial substance was to justify that deal.

February 1982: The Lumsden Building, I think that is the one on Adelaide; it had been sold in January 1982 for \$4.2 million and by February it had been revalued to \$20 million. I have to assume that with the close contact that existed between the minister and the trust companies, Seaway and Greymac, his regulators had those figures staring them in the face. I want to know later whether he was ever given any position papers or reports raising concern over this.

Was the minister apprised of the fact that in this case both Seaway and Greymac put \$4 million in mortgages into a property that had been valued days or weeks before at \$4.2 million in its entirety and had changed hands in the open market?

What did the regulators see? What were they told? Did they not have powers to look at the details of those transactions? Were they not able to go the registry office if they could not get the information from the companies? The selling prices were matters of public record, were they not? Were they checked in some way?

12:10 p.m.

What kind of reports came to Mr. Crosbie or to this minister? What kind of reports went to the cabinet about this scandal that was building

up under his doorstep? Was this information ever conveyed to cabinet on the two or three occasions during this period when the approved capital for these companies was increased?

This was not done by edict of the minister but by the cabinet as a whole by order in council, presumably on the basis of a recommendation that would have to have passed both through the deputy minister and the minister. Were there no alarm bells at all? If there were alarm bells, then why the devil were you not trying to find ways by which you could respond and do something?

In September 1982, Greymac Trust Co. gave a mortgage at 10 per cent on the Goderich Mall. The value of the mortgage, it says here, was at least 100 per cent of the previous selling price at the time Greymac Trust was issuing guaranteed investment certificates for 15 per cent.

I just read in the paper the other day that the Poles are getting credits from Libya to buy Libyan oil and they are selling the oil on the open market in order to fetch cash. They are selling it for less than the price at which they are getting the credits from Libya. This is the same kind of thing. It is like cutting cheques. You certainly cannot make money if you are borrowing at 15 per cent and lending at 10 per cent.

That is such an outrageous business practice that it seems to me there was ample justification for the ministry to have moved in at that time.

In April 1982, Greymac and Seaway Trust Co. crossed \$4-million mortgages in the case of City Park Apartments. Did the people regulating Greymac and the people regulating Seaway never talk to each other and start to raise questions?

Since these two companies were playing such cosy games, and since so much of their investments were going into investments in which their principals or in which multiple-unit residential buildings were involved, were there no alarm bells, minister? Were there no suspicions at all? Do we have to believe that? And if not, who the devil is accountable?

In late 1981, the flips were used to provide dollars to Andrew Markle to help raise the borrowing base of Seaway. That is very serious as well, because when I look at the regulations that relate to the Ontario Securities Commission, minister—this is some research which was done for me by the legislative library research branch, for which I thank them—the Securities Act requires that a detailed company prospectus accompany any new issue of shares; not done in the case of the trust companies.

Every issuing company must file annually an

audited financial statement within 140 days after the end of the company's fiscal year; not done in the case of trust companies because of lax enforcement.

In addition, interim financial statements must be filed three times a year within 60 days after the end of the first three quarters; not done within the trust companies branch because of lax enforcement.

On a continuous basis, a company must file information as to any material change in its affairs such as that which would affect the value of shares within 10 days of the date on which the change occurs; not done in the case of trust and loan companies. There is no concept of material change.

You may tell me later just what information was being given privately, but these filings are done on the public basis and yet there are more widows and orphans who are involved in putting money into trust and loan companies—the more vulnerable and uninformed investors, I would suspect—than in putting money into publicly-traded companies on the Toronto Stock Exchange.

Not only that, but people who invest in the stock exchange at least engage the services of a broker. Brokers are professionals and therefore have some ability to advise their clients, whereas most typically if anyone is advised to put an investment in a trust or loan company they may go to a bank manager and often they just simply walk in off the street without getting any professional advice at all.

Reports of trading carried on by insiders must be filed regularly within 10 days after the end of the month in which the trade occurred. Yet Mr. Markle was enabled to do flips, for example, which were a direct means of putting cash in his pocket as the result of dealings with one of his own companies.

No person or other entity in a special relationship with the company may buy or sell that company's shares if they possess information that has not been generally disclosed. I appreciate that the situation is a bit different with respect to trust companies, but the spirit of that OSC requirement is completely absent in the way that these unscrupulous financiers were enabled to operate with respect to Greymac and Seaway.

The OSC has the power to compel disclosure from all public companies trading securities in Ontario, regardless of where they were originally incorporated. I am not sure what powers you have to compel disclosure. Certainly, you

have not used them publicly in the way that the OSC has quite consistently done; not in these estimates.

I would like to do a critique of the OSC. I have some concerns about the fact that we think we are safe because Conrad Black is okay, but that is not at issue now. What is at issue now is that the OSC is relatively progressive in terms of securities legislation in Canada. It is the pre-eminent securities regulator, and its standards are light years away from the standards that were being applied to financial institutions which had some \$30 billion or \$40 billion of public funds in Ontario.

In May 1983, the OSC imposed a requirement forcing all banks to reveal the countries where they have loans totalling more than one per cent of their entire loan portfolios when they submit prospectuses that accompany new share issues.

Effectively, the new rules they are bringing in with large companies, and maybe large banks, require a kind of general filing every year because those things are happening all along. Trust companies certainly had no requirement to make any disclosure of the degree to which their portfolios were concentrated into a few specific investments. Even if the regulators were informed, certainly the public had no means of choosing between a company that would pay them one per cent more but that had most of its investments in some very questionable investments and another trust company which had continued to concentrate on residential mortgages and other traditional trust company areas.

I just make that comparison, Mr. Chairman, to point out to the minister that over the 10 years prior to these trust company scandals there was time when any alert and aggressive administrator, policymaker, would have been coming to grips with questions such as those. They would have been asking themselves questions as to whether or not trust and loan company regulation was not perhaps falling behind securities regulation in the province and whether some appropriate changes should not have been made.

In April 1982 Seaway does a deal. It trades preferred shares of \$5 million for mortgages. The result is that it is enabled to raise its borrowing base, the Morrison report says, by \$220 million. I am not sure if that is correct or not. It seems a bit high to me, but none the less it was clear that real money did not trade hands in those particular cases.

In August-September 1982 the Midland Bank buys \$5-million worth of shares. That enables

Seaway to increase its borrowing base by \$62 million. Seaway promptly puts \$5 million on deposit in the Midland Bank. In other words, this is another deal which is basically just a sham.

In May 1982 the units in the Harbour View condominium in Sault Ste. Marie are valued at over \$100,000 in the sale which is made by Markle's company. The total value that is put on to those particular units is \$4.8 million. They are mortgaged for \$75,000 to \$85,000 apiece, based on that valuation of \$100,000.

I have been to Sault Ste. Marie. You have been to Sault Ste. Marie, minister. You can get \$100,000 for a condominium in the Renaissance Plaza, maybe \$200,000 in a place like Harbour Square, but is it really credible that in a city like Sault Ste. Marie—a blue-collar town, regardless of where the location is, on the harbour or whatever—there could be several hundred or a hundred apartment units which are worth \$100,000 or more apiece?

Surely some questions would have to be raised at that point about the basis of value? The basis of value, however, never appears to have been questioned. I have been asking myself some questions about that. You are aware, minister, that there is a commonly accepted standard of valuation which is used in such things as expropriations. It relates to free market values between willing buyers and willing sellers.

12:20 p.m.

The appraisers have many standards on how to measure that. They may differ a bit about it, but basically if you have a comparable property and you want to have a value on it, you start with what something comparable sold for last week or last month or last year, rather than the kind of cocked-up values that people are putting on these properties because of multiple-unit residential buildings.

It was also evident by May of 1982 that a lot of the properties which have been revalued sharply upwards because of the MURB scam were not actually moving. In other words, the evaluation that was being put upon them would not appear to have been realistic because there were not willing buyers at those prices in the market.

Also, given the reputation, history and traditions of trust companies in the province, given the fact that basically they have been considered to be relatively conservative institutions, one would have thought that, given two or three different standards of value, they would tend to go with both the most widely accepted and the

most conservative. However, in the case of Seaway and Greymac, they consistently went for the innovative, to use a kindly word, and shaky valuation over the traditional value within the market.

Twice during 1982 Seaway had its authorized capital increased. The Morrison report figures—I am not sure this is accurate and I am open to correction—were that the authorized capital of Seaway was increased from \$5 million to \$75 million by action of the cabinet. That seems like a mistake in Morrison; I do not have the actual figure.

In the case of Greymac, the increase was from \$15 million to \$25 million. The facts are that those authorized capital funds were increased on three occasions despite the reservations that were held. You had the power to say no, and in that way restrain those companies. I believe you also had the power to curb them by reducing the multiplier—

Hon. Mr. Elgie: Not at that time.

Mr. Cassidy: Not at that time? Okay.

What was done? Did the registrar keep it all to himself? Was the deputy minister informed? What did the minister do? I will wait to hear from you about those questions. I have serious questions about them.

Back in August and September 1982 your officials were meeting with federal regulators, but you decided, or for some reason you did not proceed with the joint investigation. Perhaps you can explain that.

The question is, what might you have done? You say you could not have reduced the multiplier. You could have refused the increase in authorized capital.

You could, most of all—it might have been unprecedented—have done what the securities commission does all the time. You could have simply threatened public disclosure. You could have indicated in a public press statement—I recognize the consequences for the company—that the ministry was in consultation with the federal people and had made the request to them that further access to Canada Deposit Insurance Corp. was no longer to be provided until these companies put their affairs in order.

You could also have indicated that for the present this was not going to be done with respect to existing deposits. I do not know whether the federal power is an all-or-nothing kind of thing. If it is, I think you would have felt compelled to have maintained it, but simply making the statement that the request was being put in and would be implemented if the compa-

nies did not mend their ways, would have shut them out of the market for further deposits. That was one of the things you could have done.

The fact those companies were put on month-to-month licences was never made public. That could have been communicated. Then the financial press, and after that the people who follow the financial press, would have been free to draw their own conclusions. A lot of people who got hurt would have been able to pull back.

Let us face it, there was perhaps some unwise chasing after an extra one or two per cent on interest rates by people like some of the school boards and municipalities who put money into Greymac and Seaway. If they had known, however, that those companies were on a month-to-month licence, I think most of the treasurers of those outfits would have been wise enough to simply steer their money somewhere else. The companies would not have been able to raise the huge amounts of capital they were raising in the market, and they would have been impeded from the degree to which they went.

My contrast is with the Ontario Securities Commission's filing of orders on a weekly basis. As I pointed out before, the regulations with respect to public companies simply do not apply to trust companies when it comes to guaranteed investment certificates or deposits.

I also want to question the fact that many professionals have been involved, certainly the appraisers. Their role is extremely questionable.

If you were a really vigorous minister, you would be pursuing through every vehicle possible inquiries as to the professional integrity of appraisers who were responsible for that series of evaluations on those MURBs that allowed Greymac and Seaway to run all their pilot projects for the eventual Cadillac Fairview scam.

With respect to the responsibilities of the legal profession, you and your colleague the Attorney General (Mr. McMurtry) should be pursuing this with respect to the large number of lawyers who lent their names and professional reputations to the affairs of Messrs. Rosenberg, Player and Markle and their gang.

What about Mr. Ball and Mr. Broadhurst, for example, of the firm of Broadhurst and Ball? If they had any integrity, would they not have simply walked away when Crown Trust came along and said, "By the way, we would like you to do this deal for us with respect to the Cadillac Fairview borrowing"? What they did was take the money and run.

I presume there is a substantial fee involved

for lawyers for doing very little except lending their names to that particular deal. They had never dealt with Crown Trust before. They were asked to do it under highly unusual circumstances.

In the case of Mr. Broadhurst, he was the chairman of a company in which Seaway and Mr. Markle, I think it is, had controlling interests. Therefore, among other things, there was a conflict of interest in terms of his firm being as intimately involved in a deal so closely linked to the Seaway group.

What happens? A year later, while there are all kinds of legal cases brought in the private sector, I have yet to hear that those questions have been raised.

If you are going to be responsible for helping to ensure some adequate basis of business ethics, minister, you have to get to the individuals involved and indicate that kind of conduct is not tolerable. Those people have a professional responsibility, and within what powers you have, either directly or by putting pressure on the regulatory professional bodies, you had better try and ensure that professional standards in the province are not eroded by shysters.

When it comes to the duties of directors as well, as I said before, because of the negligence of the government the duties of the directors under the Loan and Trust Corporations Act are less than under the Ontario Business Corporations Act. None the less, the requirement exists in common law that they act prudently and that they keep themselves informed about what the devil is going on in the companies from which they are drawing a director's fee.

What do you have, though? John Clement and Stanley Randall hang around on the board of Crown Trust until January 1983, and they only bail out when the ministry actually comes in and takes the company over. Did they do anything in the meantime? Did they do anything in the meantime to exercise any responsibility as directors between October 7 and January 7, a period of three months? It would appear the answer was no.

David Cowper, a noted Conservative fundraiser was the chairman, and also a director, of Greymac Trust over much of this time. What kind of responsibilities did he exercise when these kinds of activities, which he must have known were extremely close to the edge, were going on? Mr. Rosenberg, I think, has admitted as much. Player and Markle were in the same game.

12:30 p.m.

What responsibility did he exercise with respect to such things as value, with respect to such things as ensuring that the public's trust in a trust company was respected? What are you doing about it? Are you going to go after those directors? It seems to me you might consider it, because if the public can see that even the fact the people have close connections with the Conservative Party was not enough to protect them when they had failed in their responsibilities as directors, if the public could see that, then perhaps we might see some more exercise of integrity in our directors.

Mr. Chairman: Excuse me, Mr. Cassidy, it is almost time.

Mr. Cassidy: I am just going to close off about trust companies, I think that would be appropriate. Then I will continue my other remarks later. Would that be acceptable? I just have a page or two more.

I think I have made most of the points I want to raise. It is an extremely complex area. I am quite prepared to grant that. I have already learned more about trust and loan companies than I ever really had a desire to know, and I suspect the minister may be in the same boat.

However, the fact is that there have not been effective changes since the failure of Atlantic Acceptance Corp., since the failure of Re-Mor Investment Management Corp. You have had lots of warnings. You had the collapse of Fidelity Trust a year or two ago—

Hon. Mr. Elgie: No, that happened last May or June.

Mr. Cassidy: I am sorry, in May or June. However, it is not as though these things came out of the blue. There is a real political responsibility here.

I believe, and my party is now of the view, that the federal rules with respect to 10 per cent control—limitation of ownership to 10 per cent of a trust or loan company—has to be implemented in Ontario, and I think that the thresholds in the federal act are too high. It has been pointed out directly that those thresholds are so high that they would not have touched the companies which we are talking about now, except possibly Crown.

I am not exactly sure what the modality will be. We will discuss that when we discuss the

trust and loan companies white paper. I just want to say here that it is clear from the evidence that someone who literally had probably no net worth at all, Mr. Player—I think his Kilderkin Investments was actually in a deficit position in terms of net assets—none the less, Mr. Player controlled Seaway, controlled a company with \$200 million or more worth of assets.

In other words, the present law allows people to get enormous financial leverage on the basis of little or no personal resources. That, I am afraid, is a licence for abuse. You are bound to have a situation where people can see the opportunities and will be tempted to move into that particular area.

Later in these estimates I want to talk about the area of pension funds. I think some of the same dangers are there, and some of the same weaknesses in terms of regulation. I am going to talk about some of that and try to flag it. I think the ministry has to be looking at that, in addition to the policy questions.

However, I have to say that we will not be effectively in control of this area until you clean up your administration and until you also ensure the conditions which tempted Mr. Player, Mr. Rosenberg and Mr. Markle to come in are removed.

Minister, you are responsible for what has gone on. You are responsible; your government is responsible. You cannot shirk it. You cannot just simply explain it away. On any reasonable observation, \$300 million or more was raised between the time you and your ministry could and should have moved and when you did. Yet more than \$300 million has been lost to the public from the Canada Deposit Investment Corp. It was needlessly lost because of the failures of regulation by you and by your ministry.

Mr. Chairman, I will conclude there and perhaps I can continue when we get back to it tomorrow.

Mr. Chairman: Thank you, Mr. Cassidy. We will continue tomorrow, after question period. The meeting is adjourned until then.

The committee adjourned at 12:34 p.m.

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Boudria, D. (Prescott-Russell L)
Cassidy, M. (Ottawa Centre NDP)
Elgie, Hon. R. G., Minister of Consumer and Commercial Relations (York East PC)
Eves, E. L. (Parry Sound PC)
Gillies, P. A. (Brantford PC)
Kolyn, A.; Chairman (Lakeshore PC)
MacQuarrie, R. W. (Carleton East PC)
Mitchell, R. C.; Vice-chairman (Carleton PC)
Swart, M. L. (Welland-Thorold NDP)
Williams, J. R. (Oriole PC)



Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations

Third Session, 32nd Parliament

Thursday, December 1, 1983

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, December 1, 1983

The committee met at 4:09 p.m. in room 151.

Mr. Chairman: I see a quorum and I call the meeting to order.

Mr. Breithaupt: Mr. Chairman, before we begin estimates, I wish to place a letter before you, with copies for the members of the committee, to make what I suggest is a modest proposal as to how the hearings on the various items referred to the committee may be dealt with. I have made some assumptions there and I have also presumed we will have, in a formal way, a reference of the trust company white paper and its supporting documents to us.

In speaking with the minister, I did suggest to him there has to be some little hook upon which this committee can act and there is the necessity, as I understand it, to have that matter formally referred as a government motion to us.

What I have set out for you is a possible use of a maximum of some seven weeks to deal with the matters before us. I have made some assumptions, as I have said, and I am sure various matters of the committee will want to comment and give some thought at least to this as an idea. It may be of help; if it is, so much the better. I have included suggestions as to some publications that may be of value. With that, I think, if the members of the committee want to look it over, it will form a basis for discussion perhaps next week.

Mr. Chairman: That is agreeable. I have taken the liberty of talking to Mr. Renwick. As far as the seven weeks are concerned, he concurs. We may not need all of that time, but certainly we should ask for it. I think the members should have a few days to look it over and we should discuss it next week.

Mr. Breithaupt: Just trying to help.

Mr. Cassidy: Mr. Chairman, I am sitting in on this committee for the first time. As critic, I had hoped to be available for the trust companies matter, but I have problems because of a conflict with the procedural affairs committee, which has tentatively scheduled itself for three weeks, beginning the week of February 13.

It may be that some overlap is inevitable and I accept that. However, if it were possible to do some juggling to try to ensure as little overlap as

possible between the trust companies matter and my sitting on the other committee, I would be very grateful. We might be able to do some reorganizing of the trust companies stuff earlier in the winter.

Mr. Breithaupt: The House leaders are shuffling times as best they can.

Mr. Chairman: The whips are meeting on that too.

Mr. Cassidy: I am suggesting that within the seven weeks it might be possible to reorganize the time within this committee.

Mr. Chairman: I will give it some consideration.

Mr. Cassidy: I have not had a chance to talk with my friend Mr. Renwick about this.

Mr. Breithaupt: He will not have seen this proposal either. It is just a hopeful start to give us something to talk about.

Mr. Chairman: I think we should return to the ministry's estimates. Mr. Cassidy, you were concluding your remarks.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

Mr. Cassidy: Mr. Chairman, I have a few other remarks to make. As I said before, I have lost the page on which I had one or two notes about rent review. That is obviously a very important subject, the whole tenant and landlord question, but it is going to be raised by my friend Ross McClellan, who is our housing critic. Therefore, rather than touch on it further, I will simply proceed.

Yesterday I was speaking about financial institutions in general. I did indicate our concern goes beyond the trust and loan companies to the general area of financial institutions. At the very least, it seems to me that more than an internal review of those areas may be required.

Our party has indicated with respect to the trust companies affair that, with the amount of money that has been lost and the degree of mismanagement, it may well make some sense to have an outside inquiry or a royal commission on that matter, rather than simply being content with the internal review, damning though that may be.

In somewhat the same vein, and briefly, I would say to the minister I think one of the real problems in the trust companies area is that the law lags far behind the development of securities law generally as it applies under the Ontario Business Corporations Act. I once worked for Margot Naylor who is a member of a select committee in Britain studying the matter of company law. From her I learned many years ago in Britain that the need for disclosure is a very important protection for the public in the area of securities and, I suspect, financial institutions in general.

I think it is regrettable that has been honoured in the breach or else we have lagged in terms of interpretation in that area. It is interesting, just in terms of the thinking, to see that this is not just something that comes from a wild-eyed socialist.

Hon. Mr. Elgie: Which you are.

Mr. Cassidy: Which I am reputed to be. In my secret heart, who knows how mellow I have become?

In 1980 the Canadian Institute of Chartered Accountants did a research study called Corporate Reporting. I will quote from it: "Large public companies are the creatures of the society they serve and within which they operate. The effectiveness of their operations is determined, to a large part, by the facilities that society makes available to all its members in the form of education, public health and safety, law enforcement, highways, airports, harbours, etc. Corporations and society are mutually dependent on each other, and it is in the interests of society as a whole that the obligations as well as the benefits shall be mutual."

I accept that remark coming from good friends of the New Democratic Party, the chartered accountants.

Hon. Mr. Elgie: Gosh, we thought you would disagree.

Mr. Cassidy: There is no particular reason why they should be bad friends with the NDP. I think the point they make is appropriate. One thing I have learned in the past couple of years, while spending some time up at York University, is to come to grips as a socialist with the existence and continued existence of large private entities or economic organizations in our society.

I have also come to grips with the reality that, whether it is the Mitterrand government or Willy Brandt, Helmut Schmidt or Allan Blakeney in Saskatchewan or the wild-eyed socialists in

British Columbia back in the early 1970s, the private sector has been changed by having democratic socialists in power, but has not been eliminated, certainly not by a long shot.

The private-sector corporations have a role—I hope no bolt of lightning will hit me for saying this. They are a means by which we organize our economic activities.

Hon. Mr. Elgie: Come on now.

Mr. Cassidy: Mr. Chairman, if the member for Prince-Edward-Lennox (Mr. J. A. Taylor) agrees with me, then I know that I am making a mistake.

Private-sector organizations are the way by which we carry out economic activity. In Yugoslavia it is done by corporations, economic entities that are controlled by the workers.

Mr. J. A. Taylor: Revisionist.

Mr. Cassidy: Well, it is revisionist. In the Soviet Union, obviously, and places like that, it is done extremely badly by economic entities that are owned by some form of state capitalism. A lot of what we have to talk about in this society, in terms of economic policy and so on, is how to ensure a balance between public needs and private interests. I think that problem exists in any society, regardless of the form of economic organization.

I raise this because large economic concentrations of power in private hands and private companies in this province are not required to disclose anything meaningful about their operations. As the minister knows, that is not the case with respect to companies that are under the Canada Business Corporations Act. It requires any company that has gross revenues exceeding \$10 million or whose assets exceed \$5 million to file financial statements with the department of Consumer and Corporate Affairs. We do not.

For example, there is perhaps a useful piece of economic information, like the annual turnover of the T. Eaton Company Ltd., that is not available to the public. As I recall, Eaton's is an Ontario registered corporation. If I happen to be wrong about that, there are others which come under that particular case. When an organization is as large as some of these private companies are in this province, it is appropriate that more be known about its operations than is required under Ontario's Business Corporations Act.

I do not know whether the figure, the threshold beyond which you should file figures, should be \$10 million or \$1 million or \$200 million. I think it is important to begin by establishing the

principle that if you wield a lot of economic power, you should not be able to do so completely in secret. Customers, suppliers, creditors and other people who do business with those organizations should have access to information in some way, such as through Dun and Bradstreet Canada Ltd.

None the less, it is appropriate that if they are going to do business, perhaps get the company on a contract offered by some organization like that, they should be able to know more than the limited amount of information they can glean with a wink and a nod or from articles that are done on a speculative business in Canadian Business magazine.

4:20 p.m.

Likewise, it is bizarre that in the home of free enterprise and capitalism in the United States the Securities and Exchange Commission is far more rigorous than our securities commission with respect to the standards of disclosure required of public companies. As the minister knows, for a long time now financial journalists, of which I used to be one, have trekked down to Washington or have dug into the data base that is now available on computers in order to obtain such information as the remuneration of the top officers of publicly traded corporations, something that in our discretion is not revealed under Ontario law.

Without pursuing this much further, I just point out that information on corporation performance is sought by a variety of groups, including consumers, competitors, creditors, special interest groups and lobby groups. I think they all have a legitimate interest, not in knowing what the patents are or in knowing absolutely everything the company does, but certainly in knowing some basic information on which to describe the financial health and economic impact of the operations of those organizations.

Not only Ralph Nader but a wide variety of critics have suggested that securities commissions, instead of merely acting as watchdogs over minimum standards, could become instruments that help to create an incentive for social responsibility in the work place. I would point out as well, and I think it is really important, that in West Germany now and in other countries in western Europe—Belgium, France and the Netherlands as well—there is more and more emphasis on companies disclosing detailed economic information to workers, usually through works councils. That is, among other things, where there are going to be negotiations where there is

a collective agreement, which eventually has to be resolved.

Why should that be important? What happens right now, of course, is that there is a great amount of myth on both sides. The union thinks that every penny in profits belongs to it; the company thinks that any increase in wages is going to bankrupt the company. They are probably both wrong, but there is no meaningful factual base on which to work because information about the company is not required to be communicated to the unions. Information about the plant or the entity where they happen to be working is not communicated either.

In addition to what is done through our labour legislation in Ontario, Ontario could and should set a lead in disclosure, in the information that, among other things, would be made available to the employees or to the trade unions. At times I might justify the trade unions digging their heels in and asking for more; at other times, particularly in the very tough economic conditions we face for the next decade, it may well lead to a more meaningful discussion between union and management over the problem that both face, which is the survival of the firm and the improvement of competitiveness and productivity so that the company can get its profits and the workers can keep their jobs and also get a better pay packet or better fringe benefits. Instead of working on myth, in other words, they would get down to hard thinking and some co-operative endeavour to try to find out how the limited surpluses available could be both expanded and shared.

I want to go on now to speak to a specific matter that relates to the treatment by this ministry and by the government of a group of people whom I have got to know over the course of the last four or five months, the employees of the Ontario Share and Deposit Insurance Corp. The minister may appreciate that there is a temptation within opposition parties to go running off to the press whenever a scandal or a problem presents itself.

Hon. Mr. Elgie: Which this is not.

Mr. Cassidy: This is a problem. I am critical of the way the ministry has acted. I think the behaviour of the ministry contradicts the minister's previous record when he was Minister of Labour of having some sense of responsibility for workers displaced through no fault of their own. It perhaps contradicts the reputation he has gained, with some justice, as being one of the more sensitive members of a fairly insensitive group of cabinet ministers.

Hon. Mr. Elgie: Oh, come on. Stop the garbage.

Mr. Cassidy: Concentrate on the first part, not on the second.

Hon. Mr. Elgie: As long as you tell us which to ignore, then we can all settle down for a while.

Mr. Cassidy: Okay, that is good. There are half a dozen representatives of the employee committee at OSDIC here, including the chairperson, Mrs. Mireille Watson. As I said, I have been in touch with them on frequent occasions for a number of months. We have been in touch with the minister's office, as he knows, about this particular case. I have to confess with those employees to total frustration in terms of adequate information or implementation of promises made by the minister at the time Bill 71 was quickly shoved through the Legislature last June.

The minister stated in his opening statement a couple of days ago: "I am pleased to advise you that the changes to OSDIC's role, and the consequent impact on their employees, has so far resulted in minimal dislocation to the staff. The staffing plan prepared by the chairman of OSDIC is on schedule and the ministry is being kept fully informed of progress."

Perhaps the minister could inform me and also the employees of the progress because it has been almost six months now since the employees first learned in a credit union central newsletter that their jobs were on the line. That was their first information. They have been almost totally frustrated in their efforts to get reasonable treatment, reasonable consideration and some indication of what their future is going to be through their general manager, through the chairman of OSDIC or from government.

May I remind the minister that while I think I said in one of the notes at the time there appeared to have been a fair amount of advance consultation about Bill 71 with the credit unions, certainly it got fleeting exposure before the public. It was presented in the Legislature on June 16 and it passed second reading on June 21. The reasons for putting it through quickly were compelling in the sense that the credit unions had a case for getting a \$60,000-deposit insurance limit. However, we were aware of and raised the question about the impact on the employees and we simply did not have the time in four or five days to explore all of the implications.

However, the minister's response to remarks of the member for Kitchener (Mr. Breithaupt)

and my colleague the member for Welland-Thorold (Mr. Swart) was: "Both the member for Kitchener and the member for Welland-Thorold have raised the issue of whether or not there will be any staff reduction as a result of the changing role that takes place in OSDIC. Of course, there will be some staffing implications; the exact numbers, I have to be honest, I am not fully aware of at the moment. The chairman of the commission, of the board of OSDIC, is well aware of this problem. It will not happen with any degree of rapidity and it will not take place without every available facility, in terms of the Civil Service Commission and other options, being fully explored. I think the member knows me well enough that this kind of issue is one that would be paramount in my own mind as well."

Those were the words. I am not sure if Mr. Struthers is here today or not. I do not know the gentleman.

Hon. Mr. Elgie: I do not know if he is or not either. I do not think we are at that section in the estimates yet.

Mr. Cassidy: No, I was just asking. I did not know whether you had asked them to be here.

Hon. Mr. Elgie: I was just wondering. You were not expecting them to be here?

Mr. Cassidy: No, I was not expecting them. I was just asking.

As of about a week ago it is a full five months and some days after that date the employees learned that 30 of the original 61 jobs will disappear next June and a further 20 will have gone by December 1984. Seven jobs have disappeared up to now, although I believe those have disappeared by attrition and nobody has been shown the door up until this time.

4:30 p.m.

However, there has been a great deal—that is the only way I can describe it—of frustration in terms of the employees finding out what on earth their future is. A number of them, for various reasons, justifiably felt they had to consider what the next step in their careers was going to be if their jobs were going to be on the line. Given the rotten employment situation of the last few months, they also wanted as much consideration as possible in terms of flexibility to have a go at opportunities that might be available. From the beginning, they were assured by the management of OSDIC that they would have priority hiring as far as the civil service is concerned.

Priority hiring, apparently, is a word which, although not technically defined in the regula-

tions, refers to what happens in the civil service when people are released from employment and then have priority in getting other jobs for which they have applied under section 19 of the—

Hon. Mr. Elgie: I understand designated surplus employees get that kind of priority.

Mr. Cassidy: That is correct.

Hon. Mr. Elgie: That is why it is under the collective agreement. Are you proposing that be changed? I just want to be sure of what you are saying now.

Mr. Cassidy: I am simply saying that whatever it meant, priority hiring was promised and promised and promised again. On July 21 there was a meeting with the staff of Mr. Struthers. Please bear in mind that a number of the meetings with Mr. Struthers took place only because the employees in their frustration came to me, and because of my frustration, after having talked to members of the ministry staff, to Joanne DeLaurentiis. I apologize for occasionally being rather sharp in some of those discussions, but the frustration is what accounted for that.

However, the meetings tended to be brief. Mr. Struthers tended to be brusque. He was constantly kind of looking at his watch and trying to get away. There was a great deal of resistance to the suggestion that the employees should have some means of communication or some means of knowing what the devil was going on.

At the meeting on July 21, Mr. Struthers said that no one will lose his job and that priority access to the civil service would be available and not merely access to restricted positions. Promises were made to the staff in July that a staffing plan would be available by September 30, 1983.

The document that came through, finally, on November, 14, 1983, may have been what was meant by a staffing plan, but to this day the employees do not know which of the original 61 are slated to be kept and which of them will be declared redundant and should be looking for other jobs. Nor do those who are slated to be kept know whether the job will be the job they have now or whether it might be some other kind of job, which perhaps they would not want to take, in which case they might voluntarily wish to put themselves on the list as looking for another job and maybe save the job for one of their colleagues.

In a letter of July 21, Mr. Struthers wrote to me and said, "No employee will be summarily

discharged," and, secondly, "Every employee will be helped to find alternative employment which will be acceptable."

I gather it is now decided that Woods Gordon have been hired as relocation consultants. They have only just come into operation; the hiring has only just been done. Therefore, if any help is to be made available, it has not been made available up until now.

In the letter of July 21 to me, Mr. Struthers, among other things, said: "I am somewhat distressed that you have been given information that the employees have not been consulted about the amendments and about their jobs. I personally held at least two meetings with the senior people at OSDIC to discuss the impact of the amendments and their functions and on the functions of OSDIC."

The senior people are not the bulk of the employees, and it is the bulk of the employees we are talking about.

"In addition," said Mr. Struthers, "I know that a number of managers, and certainly the general manager, held a meeting with the staff to advise them of the proposed amendments well in advance of the introduction, and they were given a full opportunity to express their concerns."

Once again, the first the staff learned—that is, the bulk of those 60 people—is when they got a newsletter from the credit union, rather jumping the gun of the announcement by the minister in the House that this was going to take place and that OSDIC would be trimmed back. There certainly were no such advance meetings where the staff were given a "full opportunity to express their concerns."

Mr. Struthers says that at the meeting with the minister, "I undertook at that time to develop a personnel plan which would allow for proper phasing in of the amendments and that those staff which ultimately would not be required by OSDIC would be given every possible assistance at finding alternative employment, whether with one of the leagues, with the civil service or completely outside the industry, whichever they chose."

Finally, he refers to the job factor, saying, "We will employ relocation counsel to assist those few individuals who need a little extra assistance to find other work." In other words, he expected that "each individual be given a target date to be phased out, together with an option for alternative work within OSDIC, if there is an opportunity, or with one of the leagues or with the civil service. Finally, if these options are not acceptable to the employee,

then we will assist him in finding work outside the industry."

That was in July, but people still do not know what it means. I passed that letter on to the employees, who had had no written communication about what their situation would be, until finally they did get a letter dated November 18, together with the staffing plan. That letter from Mr. Mills refers to the selection of Woods Gordon, and then it provides something of a work plan for OSDIC. Among other things, it indicates what the staffing will be in terms of numbers, but does not indicate how that will impact on particular people.

Let me go back again to the fact that all through this piece Mr. Struthers has kept on referring to priority hiring. That has been the promise all along. Over and over again, I am told, this has been referred to.

This is a newsletter of October 24 to all member credit unions from Ed Grad, who is the chief executive officer of the Credit Union Central of Ontario:

"Question: Will Central be hiring OSDIC personnel?"

"The positions of area development managers will be advertised and recruited from within the Ontario credit union system, and where staff members at OSDIC have the required experience and credentials, their applications will be considered together with any other applications that may be received."

In other words, no indication of priority there.

"In addition, the minister, Dr. Elgie, has also indicated that OSDIC employees will be given priority status by the province of Ontario in the event that job opportunities arise in the civil service for which OSDIC employees are qualified."

I cite that, although I realize Mr. Grad does not have the authority to speak for the minister, as added evidence of the assurances that were being given.

We talked with Joanne DeLaurentiis, and this is a note from my personal file. I do not know if it was Joanne, but the note says, "Ed Grad of the credit union league has indicated to Robins" — Mr. Robins of the credit unions and co-operatives services branch — "that the league would do everything that it could to ensure that jobs were provided for any of the OSDIC people who were displaced."

I pointed out that this would not be good enough for people who are working in the dark and do not know what is happening and that

there was a lot of rumour and very little fact. She accepted that that was what I understood.

I do not know if these things have been getting through to the minister, but the proportion of rumour to fact has continued to be extremely high, and has nothing been done?

The minister has had the memo from the employees with a lot of specifics and particulars. I can vouch for all those in which I have been involved.

At the meeting on November 14, suddenly Mr. Struthers changed his mind. Having reassured people, and among other things, therefore, persuaded them or led them to believe that the most responsible course of conduct was to seek to get information from the employer and from the ministry, without going public, they then learned on November 14, for the first time, we are told, that they may only be getting access and not priority access to the civil service. This was in conflict with what they had been led to believe up until that time.

4:40 p.m.

On November 21 another meeting was held with Mr. Struthers. The staff had put in a number of memos their understanding, as early as July 21, that what Mr. Struthers meant was priority hiring. On the 21st there is a minute in this file that indicates that on August 30 a letter went to Mr. Struthers, signed by the ad hoc committee of OSDIC employees, the group that is represented here:

"On the basis of your comments at the meeting of July 22, 1983, we understand the following points." This letter was dated August 30. It was delayed a bit because the person who drafted it was on holiday.

"2. Immediately after September 30 those individuals whose positions have been identified as surplus or whose job descriptions have materially changed in the context of the corporation's redefined role will be granted 'priority hiring' status with the public service commission of Ontario. This would give these employees access to positions within the Ontario civil service which are currently restricted to existing civil servants."

In effect, it would give them priority along the lines of section 19 of the regulations.

On November 21, Mr. Struthers comes along and says, "Oh, I did not know what 'priority status' was all about." In response to questions pertaining to "priority status" we are told by Mr. Struthers, "It is next to impossible to get." Mr. Struthers promises to continue discussions with Mr. Elgie in an attempt to secure this status for

OSDIC employees, but will not commit himself to a time frame.

I have spent a bit of time talking about this. These individuals are in no way responsible for the fact that OSDIC is being cut back. That is a strategic decision that has been taken by the government in conjunction with the credit union movement. I do not dispute that it is the government's right, and we supported the bill because of the \$60,000 part of it.

However, the people who are innocent victims of this deserve better treatment, and I do not think the minister has given them good treatment. I do not think you have at all fulfilled the promise you made back in the debate on June 21, either in spirit or in letter.

I recall here that you spoke of "every available facility, in terms of the Civil Service Commission and other options, being fully explored. I think the member knows me well enough that this kind of issue is one that would be paramount in my own mind as well."

I had to be absent on the day of that debate. My knowledge of the minister in the past would lead me to understand that he would take on a promise like this sensitively, positively and in good faith. Up until now that has simply not occurred.

I refer you back to the comment you made in your opening statement, which you either drafted or had drafted for you, which says: "The staffing plan prepared by the chairman of OSDIC is on schedule, and the ministry is being kept fully informed of progress," and that so far there has been "minimal dislocation to the staff."

There has sure as heck been a great deal of disruption to the staff, even if people have not yet been let go. They do not know if they are going to have severance pay; they do not know what would happen if they were to apply for and get a job in the period from January 1 to June 30; they do not know what would happen if they were fired at the end of June, what their situation would be then and whether they would have any priority.

They do not have adequate information on which to plan their own careers. We are talking about 35 people within OSDIC who have for several years been serving the people of this province, and I just do not think it is good enough. I would ask the minister if he could not give us an explanation of the undertakings, if he would not now assure the committee that these employees will get the priority hiring they had been promised all along, along with a definition of just what that would mean.

As I understand it, it means that if they are have qualifications for any job within the government of Ontario similar to those of other people applying, they would get preference—I think that is what it means; I see a couple of nods from over there—and that they would not be held back by the restricted status but would be able to have that consideration even where jobs are being advertised on a restricted basis.

I will try to go through a number of other matters quickly before coming to the next one on which I want to stop.

Sunday openings: I have made some statements about that in response to the city of Toronto's consideration. I was pleased that they basically held the line and resisted the efforts of the Yorkville merchants, the Eaton Centre people and so on to break open into a wide-open Sunday.

I do not think we need Sunday shopping, because I think it is really deleterious in its impact on people, particularly the people who work in retail trade. Close to 200,000 people could be affected in Metropolitan Toronto if Sunday openings were to become as widespread as some of the proponents have suggested. The economic impact is absolutely minimal. Within Ontario all you are doing is either shifting sales from other days of the week or else possibly dollars shifting into retail sales that might have been spent on entertainment or other activities now carried out on Sundays.

Apart from that, we will get an extraordinarily minimal amount of spending by tourists who are in Ontario on a visit and, for some reason, do not have the freedom to shop during any of the other 65 or so hours a week that our shopping centres and other places are open. Tourists, almost by definition, are not working, and even if people are at conventions, they can usually slip away for a bit of time during the convention. There is always a bit of free time worked in, so I do not think that argument washes.

I understand that the charter and other things say we cannot do these things for religious purposes, but with regard to the concerns of the one third of us now who are, let us say, practising our religion, who go to church from time to time, and the additional one third of us who at least get to church often enough to get hatched, matched and dispatched but still have some regard for the role of the church in our lives, I think those considerations and the very deep feelings of conscience of a very sizeable minority in this society should be considered.

It is legitimate for the province to consider

the impact of policies on family. The family is a very important part of the social structure. The free love people living together and all of those kinds of things have not broken away from the fact that when men and women start to have children, they settle down into social groups which look very much like the families that existed 20, 50 or 100 years ago and long before that. In other words, the family has a very deep significance. The family is going to be further undermined because always there are going to be members of the family who are compelled to work on Sundays, whether part-time or full-time. I just think it is very bad.

I think your ministry has some responsibility to step in here, regardless of who has the nominal responsibility for this particular area, and to provide some leadership.

My friend Mr. Boudria, who gave a thoughtful and wide-ranging introduction in these estimates, has mentioned the case of Cynthia Callard and the need for amendments to the Vital Statistics Act.

I do not see Mr. Mitchell here now, but as you know, when he was your parliamentary assistant and this matter was raised, at the time there were some amendments to the Vital Statistics Act—

Hon. Mr. Elgie: Mr. Mitchell is in the Legislature debating.

Mr. Cassidy: I understand that. I knew that.

Hon. Mr. Elgie: He is not avoiding any obligation.

Mr. Cassidy: I do understand that. However, he promised there would be amendments and this particular question would be taken care of by a bill which would be rather broader than the one I introduced at the time in the Legislature.

He came to me a couple of weeks ago and apologized. He said, "I am sorry. I understood we would be doing that before the Christmas break. It has been postponed again and we are not going to do it at this time."

I just hope that this matter can be sorted out, not only because of Cynthia Callard. Effectively, her child has a name because she calls him James.

Mr. Boudria: Not officially.

Mr. Cassidy: Officially, he has not got a name, poor thing. That situation is going to prevail for other people until the necessary changes in the law are made.

The member for Prescott-Russell (Mr. Boudria) mentioned the need for protection for purchasers of motor vehicles. I would remind you, if you

need reminding, that my good friend the member for Etobicoke (Mr. Philip), has introduced a lemon-aid act.

Hon. Mr. Elgie: Lemon-aid act?

Mr. Cassidy: Yes, to aid the purchasers of lemons. That is what it is called. It is similar to the lemon laws in California and Connecticut providing that where a new motor vehicle has been the subject of four attempts to repair a defect by the manufacturer or the dealer or if the vehicle has been out of service for a total of 30 days in the course of attempting to repair a defect and the defect is uncorrected, the owner will be given a new vehicle or a refund of the purchase price.

There is an added emphasis on quality in vehicle manufacture in North America now. It is welcome, but I think that Ontario could and should adopt the kind of initiative taken by my friend from Etobicoke.

4:50 p.m.

Also on my short list, the Housing and Urban Development Association of Canada new home warranty program guarantees the deposit of a new home buyer up to \$20,000 but only if the builder defaults. This case was reported on November 19 of this year, but I think the same thing has occurred in other cases as well. Twenty-one home owners put down \$10,000 each for new homes from a company called Tri-M and a developer. They have yet to get their homes built, despite the fact that they have now been waiting some two years, I believe, to get the matter untangled.

Obviously, they cannot go and buy another house because \$10,000 is locked up. For many of them that is all the money they have. The builder and the developer are fighting over who owns the house lots. While that occurs, one family of four who expected to move into their new home are living in a one-bedroom apartment lent to them by a friend. Another family are living in a cottage and trying to find heaters so they will not get too cold. Their furniture is scattered around basements and garages, probably vulnerable to the bad weather, and the ministry excuse is that the case is before the courts.

I think this is a case where, whatever else happens, in the spirit of what was promised by the HUDAC people, the ministry should move in and refund the people their money, if they wish it. They would then become recipients of the \$10,000, which will not become available otherwise until the builder finally either defaults

or is in a position to refund the money. You should not leave people out to dry for two or three years when they are innocent victims of a situation over which they have no control.

My friend the member for Prescott-Russell has mentioned the concerns the Ontario Humane Society and other people have about greyhound racing, particularly because of the known abuse of greyhounds, which are treated as scrapped goods once they have grown too old to race or if they have been found not to be particularly successful competitively.

I have some friends who live in Tideswell, Cheshire, in England, who have three greyhounds which are castoffs from the racing industry in Britain. They are absolutely beautiful dogs. Very few people are in the position my friends are in, among other things, to feed them. They are hungry and eat a lot in relation to their weight because of their metabolism.

A lot of questions have been raised. I think that those questions should be answered. We have problems, I suspect, with overage race horses as well, but let us not compound them by having problems with overage greyhounds.

Interjection.

Mr. Cassidy: If they are Tories, of course, they are well looked after.

Mr. Boudria: They are not let out to pasture.

Mr. Cassidy: They are put out to pasture with a generous feed bag.

The question of pornography and video cassettes has been raised on a number of occasions by members of my party, by the Liberal leader and so on. I want to say a word or two about that. I asked the Legislative Library for some information on what has been done in the regulation of what amounts to a new medium. It is a new medium, and nobody quite knows how to handle it. Apart from Britain, no other jurisdiction has yet succeeded in solving this puzzle and in knowing what, if anything, can or should be done.

If you think it through, to put video cassettes under the same rules as those that apply to films that are available for public showing probably does not make sense. Among other things, if you read Mr. Justice Borins' judgement about the number—

Hon. Mr. Elgie: You are saying they should not be dealt with as movies shown in public?

Mr. Cassidy: I am saying there are questions and problems there.

Hon. Mr. Elgie: Should they or shouldn't

they? Do you think they should be dealt with the same way or not?

Mr. Cassidy: Let me go on. I am developing my argument.

I am not sure about quoting the titles of some of these tapes in polite company.

"In my opinion," said Mr. Justice Borins, "contemporary community standards would tolerate the distribution of films which consist substantially of scenes of people engaged in sexual intercourse. Contemporary community standards would also tolerate the distribution of films which consist of scenes of group sex, lesbianism, fellatio, cunnilingus and anal sex. However, films which consist substantially or partially of scenes which portray violence and cruelty in conjunction with sex, particularly with a performance of indignities to degrade and dehumanize the people upon whom they are performed, exceed the level of community tolerance."

What he seems to be saying is that standard run-of-the-mill scenes of sex are okay in films—

Hon. Mr. Elgie: Could you describe the standard run-of-the-mill scenes? I may need some help in understanding what a standard version is.

Mr. Cassidy: If this is middle of the road, I think I have been over on one side.

Hon. Mr. Elgie: That is one.

Mr. Cassidy: In looking at those tapes in the light of the federal Criminal Code, I do not think the various things described by Mr. Justice Borins are permitted by the Board of Censors in films for public showing even with an X rating or all kinds of warnings. There may be one scene which is rather fresh, but the film as a whole is certainly not the kind of film deemed not to have much redeeming social merit and they scissor it or they censor it.

If standards are going to be applied, and I am not sure if I even accept that, but if they are to be applied by an elected censor board, I am not sure whether the standards should go on being family, PG, adult and X. I suspect what Mr. Justice Borins is describing amounts to an XX which may be suitable, without violating obscenity provisions, for people to look at if that is what turns them on in the privacy of their own home, but not for showing in a public movie theatre.

Then we run into the question of what happens if Joe and the boys get together every Thursday night in order to look at some of those

tapes Joe has been renting from the local video store—

Mr. Boudria: With a case of 50.

Mr. Cassidy: With a case of 50, right. What happens if the boys start to share the cost of the 50?

Hon. Mr. Elgie: No advertising in Hansard.

Mr. Cassidy: What happens if somebody starts to show those films in his recreation room—and the technology obviously permits it—on one of these large screens which costs \$2,000 or \$3,000 and he makes a charge? The film shown is XX but does not go into the kinky violent kinds of things that would violate the obscenity code.

I saw Mary Brown the other day and I have to say she did not appear in the least depraved, despite the things she has had to see in the course of her job. But what would happen if the censor board were to come up with a list of films which were absolutely objectionable and not permitted to be shown in Ontario?

The technology of video cassettes would permit a video shop that decided to evade the law to package those XXX-rated films—which were deemed to be obscene, or about which the censor board has said, in its opinion, if brought to court would be found to be obscene under the Criminal Code—in a bunch of cassettes and label them as children's movies. People would know that if they want to rent a juicy one, they should go to Red-Hot Video and they will take it out from under their particular counter. Never mind what is said on the outside; it may be called Fantasia or Donald Duck, but it is not Donald Duck.

Hon. Mr. Elgie: It is Snow White.

Mr. Cassidy: That is right, there are real problems there. I want to say that of the choices, none is particularly good. I share the concern voiced; I think the effort spearheaded by Maude Barlow in Ottawa, for example, to try to get a redefinition of community standards under the Criminal Code makes an awful lot of sense.

I think classification is probably the way to go for video cassettes or films which are either going to be shown publicly or rented or sold to the public. I do not think censorship on its own with the snip-snips and so on is going to work. Part of the reason for that is the rather obtuse and stupid way in which the censor board has at times exercised its prerogative.

5 p.m.

The minister knows the Tin Drum affair. I

recall several years ago I tried to take my teenagers to see the movie Fame. If you have seen it, you would know it is a movie which speaks to the condition of kids growing up. They are 14, 15, 16 and 17, trying to make some sense of the world and learning by accomplishment that they can achieve great things. Yet when Fame first appeared in Ontario, it was restricted to people over the age of 18. That was a bizarre decision.

Every time we have a film festival here in Ontario, the Toronto International Film Festival, the film board, true to form, finds at least one film to snip and get into a standoff with the artist. There is no tolerance and no opening for legitimate artists to show their works without having to submit them first before the censor board or else get into all kinds of things. It is crazy that we spend so much time arguing in this place, among other things, over what the censor board does when there is a flood of depraved material available through other media.

The minister knows that everything you can see on these Red-Hot Video tapes, and more, is available in the magazine trade. It is not just available by deliberately going into a theatre and paying money, or paying five bucks for a rental, it is available if you simply lay out \$2 in your neighbourhood cigar store. That does not come under the same form of censorship.

Anyway, I think the way to go is classification. I am not sure whether the licensing of video retail outlets is going to work because there is a much larger number of outlets to be concerned about. There are 350 theatres in the province, but goodness knows how many video outlets there are. In many small towns, for example, the local TV shop, or maybe a barber-shop or maybe the local Moose Lodge or Kiwanis Club will go into the business of renting out some tapes because it is a fairly easy medium to set up as kind of a sideline to some other established business. So you may be dealing with thousands of outlets.

Going into the business is very easy. You put together a couple of thousand bucks' worth of tapes, you put up your shingle up and you are in business. Therefore, it is very prone to fly-by-night operators, whereas you can control much more easily the physical premises of a movie theatre.

I guess that is about all I wanted to say. The minister is aware of the specific concerns about film and video censorship, which I think I have enunciated, but where the real works of art are concerned, for God's sake, get Mary Brown's

scissor cutters out of it. I think artists should be given some leeway.

I find that where the censor board makes its worst mistake is where it comes in and takes in isolation a particular incident in a film which, in the case of something like the *Tin Drum*, has overwhelming artistic merit or certainly attempts in a challenging way to achieve some artistic goals, but the censor does not seem to be able to put that into context.

I want to move on and talk for a moment about the Liquor Control Board of Ontario. In his statement the minister speaks with pride about the progress made in affirmative action and cites the fact that three women have been appointed to executive positions—perhaps one or two of them are here—and that two female racing judges have been appointed at Sudbury Downs. I think that is a first in racing in North America.

I congratulate him on those initiatives, but I would have to say that when it comes to one of the major areas where he could have implemented those commitments—that is, the Liquor Control Board of Ontario—the performance has been really dismal. At the present rate—let me see if I have worked it out here—it would take 70 years to achieve equality in terms of employment of men and women in the stores of the Liquor Control Board of Ontario. Is that how long it is going to take to get sexual equality in this province? Yet that is the rate at which you are going right now.

I did not bring with me the poster which is up in my local liquor store. At any rate, the minister is aware that they have been advertising and suggesting to women that they apply. I have to put on the record to women who may be thinking of it that they may as well not bother because of how little chance there is to get hired.

I have the figures here. Last year—and there are 700 liquor stores across the province—it appears there were 117 people hired to be liquor store clerks in Ontario by the LCBO; 90 of those 117 were male and 27 were female. That is hardly stalwart progress towards equality.

In 1973 there were 17 women working in Liquor Control Board of Ontario outlets. That had risen to 94 in 1979, to 106 in 1980, to 126 in 1981 and to 146 in 1982-83. In other words, the progress from 1973, when there were 17, to 1983, when there were 146, represents an average increase of 13 women per year employed in those stores. There are 2,750 men employed in those stores.

There is an affirmative action co-ordinator—God knows, I wish her luck—in the LCBO. The women crown employees office is meant to be monitoring it but progress on any reasonable kind of basis is not being made.

It is only a few years since they stopped simply shutting women out of those positions entirely. They now apply such things as one has to show one can lift the stock and that kind of thing. It used to be it was assumed women were not able to do that which, of course, was wrong. The fact is women are grossly discriminated against.

When we get to the part-time hired people the situation is a bit better. At the part-time level there are 1,600 males and 726 females. That is an improvement, but not when you consider the fact there are 2,750 men and 146 women in full-time positions.

The pay for a full-time clerk at the career level is just under \$20,000 a year, \$11 an hour. The pay for cashiers is \$6.43. Wonder of wonders, they are all female. There is a job getter there. The pay for the other part-timers is about \$5.90 an hour. In other words, women get the jobs that pay \$6 an hour, and even then not in a 50-50 ratio, and men get the jobs that pay \$11 an hour. That is not sexual equality, not in any respect at all.

In 1980-81 I think there were three women in stores in managerial positions. That may or may not have risen to four in 1982. It fell back to three in 1983. It says here that 3.2 per cent of the women in stores are in management, as compared to 36 per cent of the men in the stores who are in management.

The affirmative action co-ordinator used to report to the general manager. Now she reports to the assistant general manager, personnel. She maintains that this is not a downgrading in her role. I report that, none the less, most people looking at it from the outside would suggest that reflected a downgrading of the importance of affirmative action within the Liquor Control Board of Ontario.

Finally, I was told there may be some problems in terms of the collective agreement and the precedence managerial positions give to people already there. In other words, if all of the store clerks are men and one has to hire managers from the store clerks, it makes it a pretty tough time for women or, if a woman would be considered, she would almost inevitably have lower seniority than a man being considered for the same position and she could be bumped on that basis.

What is notable there is the fact that not once has there been an initiative from the LCBO to try to work out with the union some means of implementing more rapid implementation of affirmative action.

I have to say to the minister we do not know the facts and figures on every part of his ministry, but there is an area we can look at and there is an area where your pretensions about equality, this government's pretensions about equality, are not matched by your actual performance.

This matter has been raised on many occasions with your predecessors. I know I began to raise it back in 1973 and 1974 when I first became aware of the situation. Other critics and other members have raised it as well. Yet the government does not have the political will to get the LCBO in line in order to do something, in order to take action and in order to ensure equality for women.

I have to say at my own liquor store, the one at St. Clair and Rushton that I go to—not Rushton—

Hon. Mr. Elgie: Do you have your own store?
5:10 p.m.

Mr. Cassidy: The one I go to when I am in Toronto. In the four or five years I have been a temporary bird of passage here in Toronto there has not been a single woman show her face, even in a part-time job, in that liquor store. In other words, boozing is a male preserve.

I want to make a plea for small business with respect to a need for change in the legislation in Ontario concerning what are known as brew pubs. Brew pubs relate to the technology that now permits mini-breweries, small breweries, to be actually physically attached to a pub or else put into a space half the size of this committee room and to supply small quantities of beer at an economic rate—and, I gather, really quite good beer as well.

I happen to be a member of the Campaign for Real Ale, which has a branch in Toronto as well as a branch in Ottawa. One of my constituents, Nick Waloff, is the chairman of that organization. I have a constituent, Laurie Trevor-Deutsch, who has raised this matter with me. He is a young entrepreneur, recently graduated from McGill, who would like to set this up, but the Liquor Licence Act effectively rules it out because of the ban on tied houses. The ban on tied houses is to prevent the kind of relationship that exists between the big breweries and large numbers of pubs in Great Britain.

However, I think changes in the law would be

available and would be workable on a basis that kept these micro-breweries from supplying more than a handful of outlets and limited them to no more than a certain gallonage. The minister may know that these micro-breweries have been experimented with in British Columbia. The Horseshoe Brewery out at Horseshoe Bay is one example. There are two or three others that have been covered in Food in Canada, and I think they have been covered in Canadian Business.

Hon. Mr. Elgie: The Prairie Inn.

Mr. Cassidy: Have you been there?

Hon. Mr. Elgie: Yes.

Mr. Cassidy: You have been doing research, is that right?

Hon. Mr. Elgie: I do not belong to your club. I just go and look.

Mr. Cassidy: You do? I am glad to hear it. If the minister would untie these houses, why, he and I could tie one on once my—

Hon. Mr. Elgie: You really have a sense of humour. Isn't that great?

Mr. Cassidy: Thank you. At any rate, it does need a change in the legislation. I spoke to Mr. Blair about this back in the spring. Unfortunately, neither my constituent nor I was aware at that time of the fact that changes in the legislation would be needed. Mr. Trevor-Deutsch wrote to you, minister, a month and a half ago with respect to changes, and I would just suggest that it be considered seriously and promptly.

I will invite the minister to the opening of the micro-brewery when it occurs, probably in my riding, some time around the end of June next year, if we can get the legislative amendments through in the early part of the next session.

Hon. Mr. Elgie: Would that be good or bad for me? I have not figured it out yet.

Interjections.

Mr. Cassidy: If you get your name in the paper, so long as they spell the name right, it is okay.

I have a brief item on lotteries. At another time I would like to look into the lottery madness we have in this province. I know that Wintario prides itself on the penetration of their marketing effort and on the degree to which Ontarians now buy tickets through the provincial lottery compared with other jurisdictions that have state or provincial lotteries. I am not sure whether that is to be commended or to be deplored. However, that is for another day.

The specific matter I would raise with the

minister is this. You have probably attended some of these beanfeasts that your party holds where corporations lay out \$200 a plate, \$1,500 a table, in order to go and hear the likes of Brian Mulroney or Bill Davis. I suppose it has become part of—

Hon. Mr. Elgie: Good value for that money, I'll tell you.

Mr. Cassidy: I am not sure. I think it is hopelessly overpriced. None the less, that happens to be a part of the culture that has set in in fund-raising in your party.

When lotteries legislation was toughened up a few years ago, it interfered with one of the traditional ways of fund-raising by political parties in this province, which was the use of small lotteries, 301 clubs and that kind of thing, to raise money. It was particularly likely to be used in work places, factories and places like that.

It was part of the reform of financing which, it was said, would assist in general in the financing of political parties. I know that all three political parties have benefited, but I suspect that your party has benefited most of all because you have the biggest bunch of corporate backers who will shell out \$1,500 for a table. Our people do not have that kind of money.

I want to suggest that when we come to the stage where fairs like the Central Canada Exhibition can have blackjack and games of chance, when we have Wintario increasingly raising money for functions which have been legitimately and traditionally government-spending functions rather than anything remotely connected with charity, I think that exclusion of political lotteries was a mistake. That was the major area that suffered and was cut back by the legislative changes a few years ago. I think that should be re-examined and opened up as long as those lotteries are for small stakes.

I just put that. Naturally the people who participate will not get a tax exemption from it. Some of them are not entitled to it because they are senior citizens who do not have an Ontario tax from which to claim deductions. None the less, it is a means not just of political financing, but also in a small way of political involvement. I do not think it should have been cut off.

The final point I want to raise is with respect to pensions. I regret the Pension Commission of Ontario does not have a separate report of its own. I took the pains to look at two or three of the annual reports from your ministry and they are all the same. They do not change from year

to year. They say nothing. Certainly that is true with respect to the pension commission.

Mr. Boudria: At least you are consistent.

Mr. Cassidy: The pension review has gone on for far too long. I was distressed and concerned at the statement by Mr. Grossman over how little he thought needed to be done.

It is my opinion and my party's opinion that early vesting should be brought in. People should not lose their pension rights because they move from job to job, particularly when more and more of us will be moving from job to job because of technological change and because of the high level of unemployment.

It has been 10 years since this matter has been under review. In the meantime we are all getting older and probably hundreds of thousands of people who could have had some income after retirement have lost it because of the inaction or the slow action of the government.

What I want to point out to you is that as of the end of 1981 the book value of pensions in Ontario, I think this is, amounted to some \$28 billion—just in Ontario. It was about \$70 billion or perhaps \$60 billion nationally at market. This sector is as big as the trust funds. However, pension fund regulation is, if anything, more backward than the regulation of trust funds was. God knows, that is pretty bad.

I do not know everything that is happening there. I am just beginning to do some research in the area, but I have some real concerns. As you state in your opening statement, there were some 400 or 500 plans that had to cash out because of plant shutdowns and so on. All of them came out okay because of the high interest rates.

Suppose that interest rates had not been so high. Would they have been able to meet their obligations? We do not know.

What standards are there for people to know whether their pension funds are being well run or not? The fact is there are none at all.

The involvement of the pension commission in terms of looking at the nature of the investments made by the pension funds is minimal. They have even fewer powers than your trust and loan commissioners. There is real evidence that people are not getting value for money in terms of the earnings of those pension funds.

In the United States between 1970 and 1979 the average earnings in the corporate portfolio of pension funds was 3.9 per cent, compared to 5.9 per cent for the stock market as a whole. The evidence is conflicting as far as Ontario is concerned. While it is conflicting, there is

certainly some evidence that these funds are earning less than if they had simply been put into a cross-section of the 300 stocks on the Toronto Stock Exchange index.

In other words, all the high-priced fund managers are doing nothing for those pension funds at all. At best, their yields equal those at the stock exchange. I will not go into it in depth—I might do it at some other time—but the range is incredible. It ranged last year from something like a low of about six or eight per cent to a high in the high 20 per cents. There is a huge difference between the best and the worst pension funds. That suggests some people are really getting the shaft in terms of how their funds are actually doing.

5:20 p.m.

According to Pension Finance Associates, which looks at these things, half the pension funds in Ontario or in Canada do worse in equities than the Toronto Stock Exchange 300 composite index.

There is no disclosure required. There are private services that provide a certain amount of disclosure, but there is no disclosure that permits me publicly to compare how my pension plan is doing against other pension plans generally. The information that is available is available to the fund managers, but certainly not on any consistent basis to the fund beneficiaries—ordinary people.

The Royal Commission on the Status of Pensions in Ontario recommended that active members of pension plans be represented on the administrative body. Nothing has been done. There is an absence of any regulation and there is no guarantee that pension funds are, in fact, being used for the benefit of workers or their community.

In other words, for example, if rotten investments are being made, if 10 per cent mortgage loans are being made when the going rate is 15 per cent, if pension funds are being put into investments at the kinds of trumped-up values we saw in the case of the trust funds, there is no way that the individual beneficiaries can have any knowledge of that until they learn that the pension fund is underperforming.

If, as I suspect is likely, we move more and more to final purchase funds rather than defined benefit funds, then clearly this situation will get more and more serious as far as beneficiaries are concerned.

Not only that, if pension funds are not doing particularly well as an investment vehicle, then I think the importance of their being used as a

social investment vehicle should be increased. If I am going to get a rotten return, then at least let us make sure that my pension fund is not going into, let us say, investments in a competitor which is nonunion and which is going to drive me out of a job.

If I am concerned about the racial relations in South Africa, then for God's sake let us ensure that my pension fund investments are not going into loans or equities related to South Africa. If my company is in trouble and I want to mandate it, then perhaps my pension funds could be invested into helping to keep that company going because a job is obviously of far more value to my economic security than being able to cash out the pension fund if the company goes under. That has, in fact, been done in the case of a company called Fittings (1980) Inc. in Oshawa.

Hon. Mr. Elgie: Whitby.

Mr. Cassidy: That is right.

Hon. Mr. Elgie: They are steelworkers.

Mr. Cassidy: Section 17 of the Pension Benefits Act regulations provides certain limitations as to where money can go. Among other things, and this is a slightly different matter, it effectively restricts almost completely the ability of pension funds to go into any kind of venture capital area.

According to an article recently in the Sunday Star which the minister will have seen, quoting Bob Tangney of the Pension Commission of Ontario, he said, "Beyond paying attention to the restrictions on eligible investments, most money managers do not get much interference." There are 8,000 or 9,000 pension funds across the province and I draw the minister's attention to what happened when trust company managers did not get very much interference. I just want to say I have real fears that could happen in the case of the pension funds.

There are no requirements for a regular independent audit of pension funds in Ontario. That is the very least that should be done. Those audits should be available to the members. That is required in legislation in Quebec and in other provinces.

There is no requirement for detailed asset disclosure to the pension commission. They cannot get behind what is there. Your trust company regulators have the power to do that, even if they did not do it.

Many funds are internally trustee; that is, run from the inside. That could mean that unscrupulous or desperate managers may be in

a position where they could misuse or manipulate pension funds.

I want to suggest therefore that there has to be much greater input from beneficiaries. The questions of vesting, the questions of control, these kinds of things, should be resolved.

The shortfall, the large number of people who get no benefits from pension funds, is a problem that has to be addressed and addressed now. There should be a regular information program from the Pension Commission of Ontario. There should be worker representatives on the commission as well as on pension fund management committees. The commission should be issuing an annual report which we could look at rather than a page or two of innocuous drivel in your report.

The pension fund managers and pension fund beneficiaries should be able to assess the social responsibility exerted in the investments of these funds. There should be ability to direct dollars into local enterprises under some rather strict conditions.

Minister, I have to, I am afraid, go and speak on this rape case in Ottawa, which as you know, I am very concerned about. That concluded the remarks I wanted to offer. I thank everybody for their patience. I hope it is recognized that these concerns are raised in a constructive way. It is a much broader ranging ministry than I thought. I think it is a difficult ministry to run. None the less, I would like to see a sense of commitment, a sense of genuinely stepping in there and being proactive in defending the consumer, the people who are investors, workers with pension funds and all the other people, the little guys the minister is meant to represent.

If you want to show your good faith, you might start by thinking of the women who are being shut out of the Liquor Control Board of Ontario and of those 35 employees of the Ontario Share and Deposit Corp. who are still not in any position to know what the hell is going to happen to them because of the inadequate treatment they have been getting as a consequence of the actions of your ministry and of an organization in response to your ministry.

Mr. Chairman: Many concerns have been raised by both the critics. I am sure you are ready with your response.

Mr. Boudria: Mr. Chairman, on a point of order for a minute: Could we agree to discuss the trust companies next Thursday so that we could set aside that time? Maybe among other

things, that would help Mr. Thompson from being—

Mr. Chairman: One day for discussion.

Mr. Boudria: I thought we could spare an afternoon and discuss just that. Everybody would know and could prepare accordingly. We had originally thought of doing that today, as you will recall, but our lead-off speeches seem to have taken longer.

Mr. Cassidy: Can I make a suggestion that we might do that beginning next Wednesday, and ask whether my colleague Mr. Swart could say some words about consumer prices tomorrow along with other people who may wish to?

Mr. Boudria: I am not available.

Mr. Cassidy: If he is not available, then I would be agreeable to postponing it until next Thursday if you would like.

Mr. Boudria: I am not available.

Mr. Cassidy: I understand.

Mr. Boudria: Is it agreed then?

Hon. Mr. Elgie: Mr. Chairman, we should put that in the context of some agreement on all the segments. I have no trouble with Thursday but let us all get some idea, as one of the members said earlier, about what time is being allocated.

Mr. Chairman: We have discussed this matter and we all agreed, I thought, that we would decide as to the time once we had the response from the minister to the critics' questions. That is when I thought we would decide the other time allocation as to how much time we had and when we would do things.

Mr. Boudria: The difficulty with that is we may find ourselves in the last minutes of next Wednesday deciding we are going to do that on Thursday. We have other things we do as members besides attending these important estimates. It would enable us to plan more than one day ahead of time. I do not really care about the other items. I can do them at any time. But there are other members who would like to speak on that and it would give us some lead time in order to get organized.

Mr. Chairman: We have all heard what Mr. Boudria is suggesting. Are there any other comments?

Mr. J. A. Taylor: How many hours do we have left? I guess what I am asking is, assuming the minister has some idea of how long his response will be to the very lengthy—

Hon. Mr. Elgie: Very short.

Mr. J. A. Taylor: —review by the two opposition members.

Interjection.

Hon. Mr. Elgie: I think we will be all day tomorrow.

Mr. J. A. Taylor: How many hours will we have left for the estimates and could we give some consideration to the allocation of those remaining hours to the various subject matters?

Mr. Chairman: I cannot give you a definite answer as to how many hours because the clerk has stepped out for a moment but, as soon as he gets back, possibly we can discuss the matter.

Mr. J. A. Taylor: Possibly this could be done following the meeting today so that the next day we can come back with some agreement on allocation.

Mr. Boudria: We will do that at adjournment today then. Is that agreed?

Mr. Chairman: Yes.

Mr. Boudria: There is one more thing. Could I table a series of questions? I did not pose them. There is a whole bunch of them. I would rather table them and perhaps the minister could have them answered for us rather than taking a whole bunch of time from our estimates to do that.

Hon. Mr. Elgie: You do not mean answer them during estimates?

Mr. Boudria: Oh no, the minister can give us the answers whenever he pleases to do so some time in the near future.

Hon. Mr. Elgie: Do you want to table that?

Mr. Boudria: Thank you.

5:30 p.m.

Mr. Chairman: With that, we will table these questions. I suggest we continue with the minister's reply. We will deal with the matter of time allocation at the end of the meeting.

Hon. Mr. Elgie: Mr. Chairman, with the permission of the members, since the member for Ottawa Centre (Mr. Cassidy) did indicate there are some members of the OSDIC staff here, I wonder if you would mind if I went out of order for that one item since they are here today.

Mr. Boudria: He is not here.

Hon. Mr. Elgie: The member is not here, but I think his points have been made and the employees are here. We have to pay respect to that.

If I may read a brief note on this issue, then perhaps add some comments of my own, the member for Ottawa Centre has raised the issues of changes to the role of OSDIC and specifically

of the impact of OSDIC on staffing. He also made a remark I think I must respond to, that is, that the bill, the Credit Unions and Caisses Populaires Amendment Act, was thrust through the Legislature.

I find it a little strange that he should say that to me on this occasion, because actually when the bill was brought before the Legislature there were remarks by both party critics that it was an example of a bill that had gone through a thorough consultation process with members of the credit union and caisse populaire community.

If he means it passed in a short period of time, that is true. It was always my view that happened because there had been a consultation process that removed any of the questions that might have posed an obstacle to the passage of the bill. I just want to make that comment.

Bill 71 returned the role of stabilizer or the stabilization funds to credit unions and leagues if they wished to create their own stabilization fund. In addition, the bill provided for compulsory audits of credit unions with assets of under \$500,000, thereby bringing all credit unions under the same standards for compliance and insurance purposes. The ministry, leagues and OSDIC board were all aware staff changes would occur once the approval of the process had been completed in the Ontario Legislature.

Because of that awareness, I made a commitment to the House that I would make every effort to see that affected OSDIC staff were permitted to apply for positions in the civil service that were currently restricted only to civil servants. To the best of my knowledge, displaced employees in agencies of the government have never been given that priority, that access to the restricted job hiring process. Indeed, the final approval of that from the Civil Service Commission was received by me something like only two weeks ago.

That commitment I made really came into effect on November 23 for those staff who are identified as surplus to OSDIC's revised role. I emphasize to the committee that OSDIC has been constrained from identifying its surplus staff for two reasons. First, the impact of compulsory audits will take at least 12 months to be fully effective and OSDIC management had to ensure that sufficient staff would be available to complete existing statutory responsibility. Second, the Credit Union Central of Ontario had its special general meeting only on November 5, at which time its members, comprising 87 per cent of Ontario's credit unions, voted to form their own stabilization fund. They could

have turned it down, in which case OSDIC's role would have been different once again.

I have written to the member for Ottawa Centre on a number of occasions, most recently on November 22, setting out the procedures that are being followed concerning OSDIC staff. I met with the chairman of OSDIC personally as recently as Tuesday, November 22, to review with him the procedures being followed by the OSDIC board. I have met with other representatives of the ministry in that area on numerous occasions before that.

The OSDIC chairman confirmed with me that, first, at the request of the staff, all employees were to be interviewed, not just those the board might have determined might be surplus, by a consultant already hired by OSDIC; second, as soon as all staff have been interviewed, employees will be advised of their status. Those interviews started on Monday, December 5. Additional counselling for employees requiring it will be provided.

Six months' termination notice will be given. The names of those employees will be provided to the Civil Service Commission so that priority—that is, access to restricted positions within the civil service—is made available to affected employees. Meetings are at present being held weekly to advise staff of the latest situation.

I want to advise this committee I am meeting with the Ontario Share and Deposit Insurance Corp. employee committee on Monday, December 19, along with the member for Ottawa Centre and the chairman of OSDIC. If you wish to be there you may attend, too, to hear any problems which I might not have addressed.

In a more personal way, let me say I do not think there must be anything more disrupting in anyone's life than to have the uncertainty of not knowing what is going to happen down the road. I want the employees to know every extraordinary effort will be made to ensure that everything that can be done is done.

I would like to clear up this issue of priority. When the chairman of the board, whether he did not understand the situation accurately or not, referred to priority he could refer to nothing other than a priority with respect to having access to jobs that were otherwise restricted. The Ontario Public Service Employees Union collective agreement applies only to civil service employees and allows them, if they are designated to be surplus, to have a particular priority with respect to hiring. That is in the collective agreement and that is a matter we cannot do anything about.

To my knowledge, as I have said, no other agency has had access even to restricted jobs, and I want to tell the employees I have asked for communications to be prepared for me to send to other agencies of the government to see if it would be possible for them to give some special consideration to any displaced employee. Contact was also made with the Credit Union Central and I have asked for communications to be prepared so that I can again personally ask that they will be given special consideration.

As things go on, and I hope employees will understand that extraordinary efforts are being made, we cannot do what is impossible because of these and the matters I have raised.

I would like to revert to the order of business. I am sure the member for Prescott-Russell (Mr. Boudria) will be appreciative of the fact that my response will be as brief as the remarks that have been made by each of the two critics.

Mr. Boudria: I hope that means you will not take any more than an hour and a half for mine.

Hon. Mr. Elgie: Frankly, I was pleased with your grudging comments about the French language services program of the government. I am only teasing about the grudging but you did not want to come all out and praise the program. I think it is important that you recognize it is happening. I am not going to read the whole list of things but I do think there are three or four things which have been going on in the communications division that are important initiatives.

Since April 1982, the branch has provided some 50 news releases in French concerning topics of general interest. Second, consumer information is available through pamphlets or brochures in a bilingual format and some are in individual French format.

There is a special project that I think is an important one. It is called *C'est Ton Droit*. It is a 13-part series produced in co-operation with TVOntario and l'Association des juristes d'expression française de l'Ontario. It is designed to explain and demystify our provincial laws to Franco-Ontarians who may not understand the issues completely in the English language.

The ministry provided information and financial assistance for those episodes relating to consumer protection. The launch date of that series is Sunday, January 8, 1984, at 6:30 p.m.

I might just add that this year again marks the fourth consecutive year the ministry will issue a French-language annual report.

5:40 p.m.

I will now turn to the secondary matter of interest that the member for Prescott-Russell was concerned with, which had to do with liquor distribution and the revenue policies of the province. He apparently places great stock in an article written by Wendy Warburton in which she is reported to have considered that we had some two-faced policies where we relied on income and yet we allowed excesses in advertising, or so I am told.

I found that interesting, and the member himself had the decency to comment on the fact that his own views on it might well be interpreted as two-faced, since he supported broader distribution of alcohol through grocery stores and supported distribution of beer in the ball park and yet he too had some problems with the advertising.

Mr. Boudria: And the government's running of some of it.

Hon. Mr. Elgie: The issue of wine in small independent grocery stores is an issue on which we have received representations for some years. It is not an issue on which there is always unanimity of opinion. Indeed, one might say that there has been some change in the views, the Canadian Federation of Independent Business still feeling it should be confined to small business, but the Wine Council of Ontario, as I understand it, now thinking that if it were to come into being it should be on a general basis to a wide variety of stores.

We all know, as they do, that one problem they might face that they do not face in Quebec is that the General Agreement on Tariffs and Trade would probably require that there be distribution of all wines and not just Ontario wines, while the position taken by all of those organizations is that it should be Ontario wine.

I might say also that the government has concerns, particularly since you recommended beer as well, about the environmental aspects. We have in place in this province an excellent return system with respect to beer bottles and I would hate to see that system disrupted. We also have concerns about decisions with respect to selling alcoholic beverages to minors and are seriously concerned about whether or not that could be monitored in any effective way if the system were changed.

You have also indicated that you think we should go further than that just now and that we should perhaps even consider getting rid of the retail program that the government operates now.

Mr. Boudria: Not liquor. That is not what I said, no.

Hon. Mr. Elgie: Let me just say that we do not support that position. We will probably, of course, continue to receive representations and views on it.

With respect to the issue of lifestyle advertising, I think it is important that we understand the issue precisely. I asked the chairman to give me some direct comments about it, so he has.

On the issue of lifestyle advertising he refers, first, to the directive reference—that is, the guideline they adopt at the Liquor Licence Board of Ontario. It says:

“Advertisements must not suggest that the consumption of alcoholic beverages per se or a particular category of alcoholic beverage may be a significant factor in the realization of any lifestyle.

“There have been observations in the past that lifestyle advertising does increase per capita consumption. Unfortunately, there has been no one within federal or provincial jurisdictions who has been able to define ‘lifestyle’ to the satisfaction of all concerned. The term is therefore subject to personal interpretation.

“The board’s position is that alcoholic beverage producers may use people in interesting situations, providing any involved physical activity is completed for the day before the product is introduced. In the late 1970s the board did withdraw approval for a large number of beer commercials which were considered to be in the general area of lifestyle, due to negative public reaction. For the past 18 months or so the board has received very little by way of public reaction to what some would call lifestyle advertising.

“It is interesting to note that the brewing industry, which has been accused in the past of such advertising within television commercials, is most concerned, as their share of the total market share of alcoholic beverage sales has decreased substantially.

“Further, all of the TV commercials on air in the province have been approved by the ministry of Consumer and Corporate Affairs, the CRTC clearance committee and other provincial jurisdictions. The board will continue to critically review all alcoholic beverage advertising which might be considered lifestyle.”

Second, there is the issue of dangerous activity being depicted. The board’s reference in that is:

“Brand advertising must not suggest that beer per se or a particular brand of beer be consumed before or during any activity requiring mental

alertness, skill or care. This includes work, recreation, sports or any activity that involves an element of danger.

"For purposes of this section, a label or symbol associated with the brand or brand name reference used for brand identification will not in themselves be considered to be suggesting consumption of the brand.

"Acceptability must be considered in the full context of the commercial. If an activity which calls for a high degree of skill is depicted, the equipment and the action portrayed in it must meet all requirements of accepted safety standards. Any performance during the activity or aspect thereof, which may be considered reckless, will not be permitted."

You are saying that ballooning is a dangerous activity which encourages drinking, is that it?

Mr. Boudria: That is not what I said, but it is certainly a dangerous activity, there is no doubt about that. The mere fact that the balloon itself is used in the advertising of one particular brewery—I think it is Labatt's, I think we saw the blue balloon outside here—

Hon. Mr. Elgie: Carling O'Keefe had one this summer over at the island. They have their own balloon too.

Mr. Boudria: I see. The fact there was one here on the front lawn is one matter, but it is particularly the depiction of being able to fly all over the place in the Labatt's balloon pictured on television, with air shots and all that kind of thing—I think is far worse than seeing the thing here on—

Hon. Mr. Elgie: You support kickboxing but you don't like balloons. Isn't that interesting?

Mr. Boudria: Well, if kickboxing was depicted by saying if you drink lots of beer you are a better kickboxer, I certainly would not encourage that either.

Hon. Mr. Elgie: If you listen to the directives from the board, I do not think that they would agree with you, but, "Any reference to the drinking of any beverage is to come after that exercise and activity and not to indicate that it is more enjoyable to have it consumed during the activity."

You would support that, would you not? How do you think they should—

Mr. Boudria: You have to watch those things very closely—

Mr. Gillies: The point is that we do not want people flying without the balloons.

Hon. Mr. Elgie: A directive reference with respect to drinking and driving also states that brand advertising must not associate the consumption of beer per se, or a particular brand of beer, with driving a motorized vehicle.

Furthermore, a motor vehicle, stationary or moving, must not appear in actual consumption scenes; nor should there be any depiction of a motorized vehicle used in a dangerous manner.

I thought I would just give you those remarks to give the position as the board sees it.

You went on to express your concerns about a number of liquor issues, the first one being the issue of bitters. I may say that bitters are regulated under the Liquor Licence Act—

Mr. Boudria: But sold in private stores.

Hon. Mr. Elgie: Let me finish. They are sold—that means they have to get approval—in four-ounce bottles for about \$1.25 a bottle. The percentage of alcohol is not regulated because, as the board says, they must be potable but not palatable. In other words if they are tasty, then they will not allow the sale of those products because they would be used as a substitute for brandy or for other alcoholic beverages.

Indeed, the Ombudsman is currently investigating the LCBO's refusal to approve a large shipment of product brought in as bitters, but which the LCBO found to be quite palatable and therefore likely to be sold and purchased as a brandy substitute.

Does that answer the question?

Mr. Boudria: Not very well, minister. I still think that if I cannot buy wine in a four-ounce bottle, and if I cannot buy some particularly terrible tasting scotch etc. in a four-ounce bottle, why should there be a different policy for another type of—

Hon. Mr. Elgie: The point is they are not being sold or purchased as alcoholic beverages. They are being used as a condiment to be added to a beverage, like a Manhattan. I know you do not drink yourself, but you did—

Mr. Boudria: May I draw your attention to an article of October 25 by Dr. Morton Shulman in the Toronto Sun, which refers to a case where a person here in Toronto was assaulted by a number of young people who had been drinking, and at the site where those people had been were found numerous bottles of that particular item, namely bitters. It is the opinion—at least of the writer—that it is exactly what the people had been drinking; they were using it as a substitute for alcohol, which of course it is.

5:50 p.m.

Hon. Mr. Elgie: It is interesting that you have encountered complaints about it, because the only complaints I have received are from people who have not been allowed to sell their bitters in regular stores.

I have never had anyone say that they found bitters so tasty that they wanted to get six bottles and sit down for the evening. I have heard of people drinking many strange things in my life and doing a great variety of strange things. I am not referring to you, specifically.

Mr. Boudria: I do not doubt that if you allow one store to sell bitters, other stores will also want to partake in that activity. Of course they would, and of course you would have inquiries from whoever is not selling it because they, too, would want to sell it.

Hon. Mr. Elgie: No, it is not from the person who is selling it, it is from the distributor.

You also commented on the issue of dial-a-brew—are they licensed, what do they operate, must they have written authorization, and so forth. In any event, liquor delivery services such as dial-a-brew are regulated under the Liquor Licence Act, section 54, regulation 581. Such services must apply for authorization. They must submit a list of charges for such services, and they must submit with their application a letter from the local chief of police which states that the police have no reason to deny their application.

The approved delivery services must then get a written order from their customer. The customer signs a receipt form to demonstrate that the liquor has been received. Cab drivers or others performing this service without such authorization are doing so illegally.

Mr. Boudria: Of course.

Hon. Mr. Elgie: The status of duty-free shops and the implication that somehow we had been seen as the party that was blocking this—again I have answered this in the House so many times, I wonder if you do not believe me or whether you have trouble understanding what I have answered.

Mr. Boudria: I do not think I said that you were the cause of the disagreement. I said there was some sort of dispute between yourselves and the federal authority—

Hon. Mr. Elgie: But that is what I have answered several times. In 1975, when Sidney Handleman was minister of this ministry, an agreement was reached in which the Liquor Control Board of Ontario would distribute alcohol at duty-free shops. It was not until

February 1982, just before I became minister, that the federal government indicated that they no longer accepted that agreement and that the duty-free shops had to be operated by the private sector.

Quite a bit of discussion went on and finally I determined about a year ago that we should try to resolve this issue. Particularly at border points; it seems to be an important thing for the community and consumers of this province who were leaving to go on trips.

I met with Minister Bussi res in Ottawa, and he outlined the options to date that they favoured. The one that they recommended and that had been accepted by all provinces who were to be used in the trial period, except Quebec, was that the federal government would completely carry out the tendering process but a province would have a right to veto the selection, and that the stores would sell both liquor and other products.

He said the other option that Quebec had agreed to, and that they had agreed to with Quebec, allowed Quebec to carry out the tendering process on their own and they had the right to veto the process. With some minor variations that, in essence, is the difference. He told me personally he thought either would be acceptable and would I take it back and think about it.

I now find to my surprise, having received the report as recently as two weeks ago, that the second option, the Quebec option, is not available to us any more. It has been unilaterally withdrawn. The only proposal they seem to be offering to the province is that they are involved in the tendering and selection process and we would retain solely a veto power.

Mr. Boudria: Is that offer still available for Quebec?

Hon. Mr. Elgie: It really would be a joint process. I am sorry, that is right. I apologize. They would come back with a compromise which would be a joint process. I am not quite sure what that means but it is something a little more than the veto. We are sitting in on the tendering process a little more. That is the proposal they have now come forth with.

Mr. Boudria: What about Quebec? Were they offered something different?

Hon. Mr. Elgie: Oh yes, they were in on the tendering process itself.

Mr. Boudria: So they still have that option that you no longer have?

Hon. Mr. Elgie: Yes.

The last report I have is that the others have

been withdrawn and now it is an intermediate position. So we are going to review that and see if it is something we can live with.

The federal government, as you know, has laid down a couple of conditions that do not give me any trouble. For instance, it is to be operated by small business, private sector people and it is to include things other than alcohol. Neither of those trouble me as long as there is a satisfactory tendering process.

We do not want this to be Mirabel with all the problems people have encountered in the past. I do not want to mention which government is in charge of that process, but the—

Mr. Boudria: Now, now; I could talk to you about a few other items as well that have given some governments trouble.

Hon. Mr. Elgie: It would not be the community party, I will tell you, that was involved in that.

I do not know if that answers your question, but that is the stage it is at now.

Mr. Boudria: Yes, it gives me an update on it.

Hon. Mr. Elgie: As to the beer in the ball park experiment, the chairman has not yet given me a final report. I may say though that during the year it was from time to time the view, from comments he has received from people and from the police, for example, that it was not creating a problem. Indeed, there were even some suggestions that perhaps the consumption had diminished. Certainly there are people in this room, a young man back there who says he no longer has to trip and stumble over empty bottles in the aisles.

Mr. Swart: On a point of order: we have five minutes left and we are going to be setting the schedule. I think we should move on to that now.

Hon. Mr. Elgie: I am content to end on this point and start up again tomorrow on lemons.

Mr. Chairman: Fine, thank you, minister.

Mr. Boudria: You have not finished telling me about the beer in the ball park issue. Would you mind telling me—

Hon. Mr. Elgie: We have not received his final recommendations yet.

Mr. Boudria: So you do not know whether you will, for instance, be having it at Maple Leaf Gardens next year?

Hon. Mr. Elgie: It would be unfair to suggest there is any plan at present to extend the policy with respect to distribution.

Mr. Boudria: Okay, fine, so we will start with car lemons.

Mr. Chairman: Thank you, minister. The clerk has informed me we will have left, as of six of the clock today, 13 hours 25 minutes, but we have not considered yet the minister's reply to both critics. He is not through and I think he has a bit of documentation yet.

Mr. Boudria has requested that the trust company matters under vote 1502, item 3, be dealt with this coming Thursday. Maybe the committee can decide on this matter as some staff will have to be there if that is the case.

Hon. Mr. Elgie: What are we going to be dealing with on Wednesday?

Mr. Chairman: You indicated that probably your responses would take all tomorrow.

Hon. Mr. Elgie: I think I will finish tomorrow.

Mr. Chairman: So that means we would start next Wednesday with the votes.

Hon. Mr. Elgie: We have to arrange our staff.

Mr. Swart: It seems to me we should try to schedule pretty well the remainder of the time we have. I am not the critic on much of this and I wish Mike Cassidy was here, but it seems to me there should be a fairly good allotment of time for the commercial standards program, the securities. That certainly is a major issue. It has had a lot of discussion already, but I think we want to get into it again. Certainly I think we should have a couple of hours on business practices.

Hon. Mr. Elgie: Commercial standards.

Mr. Swart: Yes, that is right.

Hon. Mr. Elgie: I would like you to consider what areas you want to discuss under estimates and block out some times for them, so that our staff can free up their time for those occasions.

Mr. Chairman: Mr. Boudria has indicated he is interested in vote 1502. Mr. Gillies has indicated he is interested in vote 1504, theatres and lotteries and things of that nature.

Mr. Gillies: I am also interested in drawing the minister out on the experience with self-regulation in the insurance industry and the prospect of self-regulation for the real estate industry under whichever vote that would be.

Hon. Mr. Elgie: That would come under commercial standards. In the past you have been interested in rent.

Mr. Chairman: That is in vote 1508.

Hon. Mr. Elgie: Public entertainment has been an area you have looked at in the past.

Mr. Boudria: Can I help with a suggestion? Say we did vote 1501 on Wednesday, vote 1502 on Thursday and then just proceed with the other vote afterwards. In other words, maybe on Thursday we would set out the agenda as we progress at that point.

Mr. Swart: I do not have it in front of me now but does commercial standards not cover both securities and business practices?

Hon. Mr. Elgie: Yes, it covers everything.

Mr. Swart: I think we will need much more time than one afternoon.

Hon. Mr. Elgie: It covers pensions, motor vehicle accident claim fund, company law—

Mr. Gillies: We do not have much time. It is very tricky.

If I might make a modest suggestion, I know the trust company affair is very much on people's minds and is by far and away the most important issue having to do with the ministry. We did give it some consideration in Dr. Elgie's bill, and we do have the reference that will take up some weeks in January and February.

I wonder if, in some of these other areas that are of concern to members, we could be quite generous in allocating the time under it. I am not saying we should neglect the trust company affair. I am just saying let us keep it in the context of all the other areas we would like to talk to and not expend the whole 12 or 13 hours talking about loans and trusts.

Mr. Boudria: My suggestion was that we save just one afternoon for that, which is two and a half hours or so. Thursday is usually a 3:30 p.m. to 6 p.m. affair, so we might do two and a half hours on that issue, perhaps reserving next Wednesday morning for vote 1501, which is the main office vote, which allows pretty well all members to ask general questions.

Then we could proceed with subsequent votes after next Thursday, recognizing that at that point we are going to have only about six or seven hours left to do all the consumer issues, to do the liquor licensing issues, for those people who are interested in that, and to do the Residential Tenancy Commission, which I know a lot of members are interested in.

Mr. Swart: I do not have any objection to that. Perhaps we could just set it that far ahead—if we set next Wednesday for vote 1501, administration.

Hon. Mr. Elgie: It is three and a half hours. We start at nine.

Mr. Swart: I do not need all that time.

Hon. Mr. Elgie: That is what I am saying.

Mr. Chairman: We start at nine, because there was some confusion as to whether we would get the time.

Hon. Mr. Elgie: Yes, but we really do not need that.

Mr. Swart: I do not think so.

Hon. Mr. Elgie: Could we start into commercial standards at the end of that on Wednesday and with the trust company thing on Thursday? How is that?

Mr. Swart: That would be fine.

Mr. Boudria: So we go with vote 1501 and up to vote 1502, item 4.

Hon. Mr. Elgie: We could cover things in vote 1502, excluding the trust companies, since you asked that that matter be dealt with on Thursday.

Mr. Gillies: We could cover as much of commercial standards as we could on Wednesday, revert to the trust company matters on Thursday, and then finish commercial standards and anything else on Friday.

Mr. Swart: I would have some objection to the business practices under commercial standards on Wednesday. I prefer to have that next Friday for two reasons. I realize, all of a sudden, I have a commitment. I have commitments on Wednesday. I want to be here for them. Mr. Cassidy has commitments on Friday.

If we could deal with commercial standards a week from tomorrow that would be most satisfactory to our team.

Mr. Gillies: I have no preconception as to when we do it.

Mr. Chairman: We do not seem to be coming to any consensus. Perhaps we should have a proposal that we bring what you would like to have done on what days, and tomorrow morning we could hash it out between the three parties. Would that be agreeable to you, Mr. Swart?

Hon. Mr. Elgie: Break it down as to what you want to do.

Mr. Chairman: Break it down as to what you want and when you want it.

Mr. Swart: Then in the meantime I could talk with Mr. Cassidy, who has responsibility for most of this.

Hon. Mr. Elgie: I do not think there is a problem with Thursday for the trust companies.

Mr. Swart: There is no problem with our party for trust companies on Thursday. We can have that next Thursday.

Hon. Mr. Elgie: So we have that settled.

Mr. Swart: We can agree to that right now.

Can we get an agreement right now for next Thursday afternoon when we will deal with the trust companies?

Mr. Gillies: Sure.

The committee adjourned at 6:05 p.m.

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No. J-18

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations

Third Session, 32nd Parliament

Friday, December 2, 1983

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, December 2, 1983

The committee met at 11:35 a.m. in room 151.

Mr. Chairman: I see a quorum. As you are well aware, we have a budget for four weeks, which was passed in the early spring. The final meeting of the Board of Internal Economy before Christmas is coming upon us and the committee has a choice of submitting supplementary estimates.

We can do it either for one additional week or for three additional weeks. As Mr. Breithaupt was proposing, we will possibly be sitting for seven weeks. My personal recommendation is that we try to get the additional three weeks and we would need a motion to adopt one or other of these supplementary estimates.

Mr. Boudria: Mr. Chairman, in the absence of any permanent member of the committee on our side—you recognize, of course, that I am not a member of the justice committee; I am merely standing in for the estimates of the ministry for which I am responsible on behalf of our party—I have no idea whether this concurs with the view of our party, and I note that the New Democratic Party as well is totally absent from the room at present. With your indulgence, is it possible to discuss this next Wednesday morning? I understand that Mr. Breithaupt will be here at that time and he would know far better than I whether this represents our views.

I will be participating on the committee this winter—at least, I believe I will—in so far as the trust companies affair is concerned, but during the other weeks I will not be a member, as we will be discussing bills that have to do with the Attorney General (Mr. McMurtry). I think all permanent members of the justice committee from our party will then come back to their positions. It would be difficult for me to say now whether this is correct, and I would like to propose that you stand it down until Wednesday.

Mr. MacQuarrie: Mr. Chairman, rather than stand it down at this time, what sort of business is on our plate for the period after the House adjourns?

Mr. Chairman: We will be dealing with Bill 100.

Mr. MacQuarrie: That is a very substantial piece of legislation.

Mr. Chairman: Yes, the Courts of Justice Act. Then Bill 122, which is the Architects Act, and Bill 123, which is the Professional Engineers Act.

Mr. MacQuarrie: That is also substantial. We will be hearing from them.

Mr. Chairman: Yes. We will also be dealing with the present minister's white paper for approximately three weeks. We will have a problem if we do not allow sufficient time.

11:40 a.m.

Mr. MacQuarrie: Notwithstanding the fact that the permanent members of the committee from the other parties are absent, it would appear only reasonable and realistic that we should look at the larger budget here covering—what is it, 21 days?

Mr. Chairman: Yes.

Mr. MacQuarrie: We have some very involved pieces of legislation, the acts involving the professions, which will require witnesses here. Bill 100 is a very substantial piece of legislation; the reading of it alone would take the better part of a week.

When do these budgets have to be submitted for consideration? What do we need to get them approved?

Mr. Chairman: The last meeting before Christmas is on Monday and Mr. Breithaupt has indicated he thinks we would need, under his proposed budget of how we should set it up, six or seven weeks.

Mr. J. A. Taylor: Mr. Chairman, I think we had an indication yesterday, when he distributed his thoughtful overview on time allocation, that seven weeks would be necessary.

On review, you thought it could possibly be worked in six weeks and I think one of these proposals actually does provide for six weeks of hearings. I would think that is maybe realistic in view of the types of matters and the number of people we expect will be appearing before the committee.

If this committee is able to finish its work before that time, so much the better. I would not want to see the committee hamstrung, not only financially, but in terms of its membership,

because some of us may have plans other than being in the Legislature or in the building early in the new year. If our schedule is restricted to two weeks, then you may end up not having any members around should we need to go six or seven weeks.

Mr. Chairman: Thank you, Mr. Taylor. Mr. Boudria, you see the dilemma we are in. If you would agree, we can either accept the smaller figure or the larger figure, either for the five weeks or the seven weeks. As I said, I would recommend we accept the proposal for seven weeks.

Mr. Boudria: If you are willing to do it that way, except that with the larger amount you can always cut it down. Otherwise I will have to leave my place in this committee and cause it to lack a quorum in order not to pass this, because I have no idea whether that reflects the needs of our party or not.

So you ask for more and then you can cut it down, you can do that. On that basis, I will agree to the longer time.

Mr. Chairman: Can we have a motion to that effect? Thank you, Mr. MacQuarrie. Agreed.

Mr. Minister, before we start with you I have another little bit of a problem. My vice-chairman is unable to be with us and I have a pressing engagement at noon. I would ask if I could appoint a temporary chairman for the day, by unanimous consent.

Would that be agreeable?

Agreed.

Mr. Chairman: Mr. Gillies?

Mr. Gillies: At your service.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

Mr. Chairman: Mr. Minister, you may proceed.

Hon. Mr. Elgie: Thank you, Mr. Chairman. Last day I felt I had dealt with the concerns over aspects of liquor legislation and we then proceeded into the area, first, of what the member for Prescott-Russell (Mr. Boudria) calls lemon laws and the member for Ottawa Centre (Mr. Cassidy) chooses to call lemon-aid laws.

In any event, I have said before that we are reviewing in great detail the whole issue of lemon laws, used car warranties and repair disclosure legislation.

Really, I had not too much more to say on it at that time. I would say, however, that in the area of lemon laws what we do have to acknowledge is that the industry on its own, in co-operation

with the Better Business Bureau, has set up a mediation process for customers who have some concerns that they may have received a car that is not satisfactory. I think they are to be commended for that.

We also, again, have to make certain that we do not mislead people with those laws into thinking they are getting something they are not.

Third, we have to make sure the lemon laws, as they exist in the few states that have enacted them, are working, that they are doing something that is real and measurable and they are not just what we call window-dressing.

On the issue of used car warranties, we do know that we have already have the mechanical fitness certificate in this province, so in a sense no car can be sold or purchased in the absence of such a certificate. There is the problem, when one looks at used car warranties, of private sales of cars. Are you also suggesting that a private owner should give a warranty on a car?

Mr. Boudria: No, my bill has nothing to do with that.

Hon. Mr. Elgie: It has nothing to do with private owners, so it excludes that group entirely?

Mr. Boudria: That is right. It is already in front of the Legislature and I am sure your officials have seen that it does not have anything to do with that.

Hon. Mr. Elgie: In any event, we have had some discussions with the ministry in Quebec. We are aware of their program. We think there is some merit to it. Exactly how much merit is what we are trying to evaluate. It has had some side effects. One is that there is no doubt, in talking to them, that the cost of used cars has risen.

There is no doubt that the trade-in value of used cars has gone down. It may be that those are consequences one can accept and say, "Never mind, the end result is that people get cars and have greater assurances with respect to the quality," and maybe that is the answer. However, all I can say is that we are looking into it very seriously.

In the area of repair disclosure, as I said in my opening statement, I do not think there is anything more effective than the thought that the next car through the door may be a ghost car. We think that is a very important—

Mr. Boudria: That the next cars through the door might be ghost ones.

Hon. Mr. Elgie: You're just Casper, the Friendly Ghost. We don't mind you coming

through the door. Anyway, we are looking at it, and I might say—

Mr. Boudria: Ghosts can haunt, too.

Hon. Mr. Elgie: Don't haunt me, come on now.

I might say that it is interesting, in our conversations with Quebec for example, that they are trying to work out a program such as we have with respect to ghost cars, to augment the program they have in place.

There are problems. We are looking at it, but as you point out, the issues of monitoring, misleading, and indeed overestimating just to be certain that you never get caught with an estimate that is too low, are problems that have to be evaluated as we look at this issue.

You also raised the parallel matter of repairs on a variety of other household items. Frankly, we have not seen that as a significant problem. We did explore, as I recall it—Bob Simpson is here and can correct me if I am wrong—the possibility of doing ghosting studies with respect to things like television sets. We found that really it was just impossible to be certain that a tube was not shaken loose on the way in or out or that something else had not occurred during transportation. That was just not an area that was appropriate for that kind of ghosting program.

Again, it is an area where, I am sure, if you talk to people in the business, estimates are very difficult to make. They have trouble estimating the exact cost and it is difficult for us to monitor. We are prepared to look at it, but I want to emphasize that we have looked at it before and have found considerable difficulties in reaching any meaningful proposals for legislation that would be realistic and not just window-dressing.

Mr. Boudria: Can I just ask a quick question on your previous point about your ghost car feature that you have at the present time? How many ghost cars do you have?

Hon. Mr. Elgie: You will have to ask Bob Simpson on that one. If you want him to come up now, he can answer. Robert, do you want to come up here? I am going to ask him to confine his answers to generalities, because part of the program is they do not know what is happening out there.

Mr. Boudria: I understand that. What I want to know is do you have a sufficient number so that it is, in fact, a deterrent?

11:50 a.m.

Hon. Mr. Elgie: Mr. Simpson is the executive director of business practices. Bob, what is your experience with it?

Mr. Simpson: Mr. Chairman, I do not want to be coy about the thing. The most I will acknowledge is that right at this moment, we do not have one on the road. We can get as many as we want, whenever we want. We can send them anywhere we want. We have access to facilities, automobiles, mechanics, anybody we need for the enforcement process, but we will not indicate at any time where, when, how and what we plan to do.

Mr. Boudria: Then the suggestion of the Automobile Protection Association that you have—and I quote from what it suggested—a “permanent squad” of such cars is not what you have. In other words, if you are going to do an area, you rent, lease or whatever a sufficient number to do whatever it is you are doing, without getting into any specifics, and then you do it. Is that right?

Mr. Simpson: We have whatever we want at any given time as far as I am concerned, but we do not have a—

Hon. Mr. Elgie: Permanent squad.

Mr. Simpson: We do not have 10 cars running around all the time, but do not assume we will not have some out next week.

Mr. Boudria: Is one of the reasons for this the fact that, by getting a varying number, renting them or however you get them, you end up having unmarked cars so they cannot tell each other what the car is going to look like because it is never the same car twice? Is that some of the rationale?

Mr. Simpson: That is something. We would not have the same car. There are only so many things we can do from an investigative point of view. There are only so many areas of car functioning that lend themselves to a ghosting kind of operation. The kinds of functions one can have are limited.

If one gets into investigative techniques such as marking parts and so on, one cannot do it over and over again. There are some automobiles about which, if they were identified, ultimately one would have people passing the word around, “Watch out for this car.”

Hon. Mr. Elgie: Did that not actually happen? I do not mean that, but did not one agency or a group do that? The deputy was just mentioning that to me.

Mr. Simpson: It happens. It is a bit of a cat-and-mouse game. That is why we play it very close to the vest.

Hon. Mr. Elgie: People phoning around and saying, "We know the car they are using," and so forth?

Mr. Simpson: We have no difficulty in talking in general terms about it, but we do not talk about what, when, where and how.

Mr. Boudria: I do not want you to do that either. The Automobile Protection Association has also suggested it be compulsory for repair shops to give one back his old parts whenever they replace something on his car. Is that provided for by law right now, and what stops us from requiring that it be done if it is not the case?

Mr. Simpson: Let me tell you something about that. It is not required by law right now, but back in our investigations in the late 1970s and early 1980s of various repair facilities, none of them had any difficulty—the ones we took issue with—giving back parts. They were not the same parts they took out, but they were parts.

Mr. Boudria: I see. I suppose most of us generally speaking would not know which part is which in any case.

Hon. Mr. Elgie: You would not know which was which.

Mr. Simpson: Do not take any consolation from getting parts back.

Mr. Boudria: I do not want to labour this too long. I know we are still only on opening statements, but I would like to come back to a little more of this once we get to the specific vote.

Hon. Mr. Elgie: I think you asked about the auto dealers' fund and you are concerned about the lengthy delays, particularly in issuing and renewing licences. Let us be frank; it has been a problem. It was addressed in 1980 when the decision was made and regulations were passed that licences would be renewed on a two-year basis. Starting with that program, we are now running into the first 1982 rush. Starting now, people will be phased in so that each month there will be relatively a similar number of applications coming through so they can be processed.

In the area of new applications, we are now down to six working days with respect to salespersons and 14 working days with respect to businesses. I admit quite frankly and freely that in the area of reissuing we are taking a much longer time. It is part of this process that

we will have to work it out. It should work itself out following this year.

Mr. Boudria: How far behind are you right now?

Mr. Simpson: Six months.

Hon. Mr. Elgie: We are running six months now on reissuing.

Mr. Boudria: I was going to say you must be six months behind.

Hon. Mr. Elgie: Frankly, it is a problem. That is what the 1980 change was meant to address, so that we are not suddenly faced every year in one month with masses of applications for renewal. They will now start to be staggered and the problem should resolve itself by the time of the next reissue.

In the area of itinerant salespersons, this legislation has been in place for some time. It is legislation in which we were in the forefront. The figures of two days and \$50 are not carved in stone. They were just figures that seemed reasonable to those who drafted the legislation. It was felt that, with the two-day cooling-off period, most people who were going to change their minds would decide to change their minds right away.

If there is evidence that there is a high incidence of people wishing to withdraw from a contract over a period of four or five days, we are prepared to discuss that with other provinces, find out what their experience is and see if the number of days should be lengthened. It is not a biblical number we are committed to. It did not come down from that mountain somebody else spoke about in the House the other day.

As to the \$50 figure, we were just trying to avoid nuisance problems. There are a lot of people dispensing products for home use in small quantities, a matter of \$5 or \$10, chocolate bars and so forth.

Mr. Boudria: Girl Guide calendars.

Hon. Mr. Elgie: Yes. We did not want massive recall programs, the whole street changing its mind over a chocolate bar and that sort of thing. Maybe \$50 is not the right number. We are prepared to discuss it with other provinces and see whether they are finding there are legitimate cases of less than \$50 and whether that figure should be lower. We do not have a fixation on those two issues.

Mr. Boudria: If I can just say a word, the issue of the minimum amount of sale, although a concern, is not nearly as important, in my view,

as the number of working days allowed to cancel. The problem that exists is that a working day is very difficult to define in any case, especially when some days are holidays for some and not for others. I think of the famous November 11 example we are living with right now. It is a half-holiday type of situation.

When it is a two-day situation and one of the days is one of those half-holiday days, where you are not really sure whether it is or not, you really have only one day to change your mind. That is not much, especially in comparison to all the other provinces. This is the only province in Canada that has two days. Everybody else has four days and up. I think the average number of days is five.

Hon. Mr. Elgie: Four to five days, yes.

Again, working days mean working days. As I understand the statutory Interpretation Act, the term is defined in there and it is working days. Again, we are prepared to look at that number.

Mr. Boudria: Thank you.

Hon. Mr. Elgie: In the area of lifetime or long-term payments for a variety of items, like a Vic Tanny's membership, we had a situation up in the Orangeville area, the Havsumfun mobile park, where people had leased lots for 20 years and then the plan went bankrupt. It is a problem. I asked staff a year or so ago to start looking at options for this, but it is not an easy problem to address. We are looking at it, but there are problems.

A lot of these institutions are able to have relatively low carrying costs because of some upfront larger down payment for the process. It may be, as some clubs do, that an initiation fee would be appropriate and then some alternative method of payment that has some time restraints on it. I do not know.

Mr. Swart: What other options are you looking at in that regard? You said you were looking at options.

Hon. Mr. Elgie: I have not received a paper on it yet, but when Bob Simpson and his group are here they will be glad to discuss it with you, now or later in the estimates.

Mr. Swart: Later. It is a very serious matter.

Hon. Mr. Elgie: I do not argue with that. You went on to commend to this ministry the issue of the plain language bill. I know you did that having in mind the Toronto Star editorial commenting on the excessive legalistic terminology that was used in the bill itself.

Mr. Boudria: In the bill itself. I knew you were going to say that.

Hon. Mr. Elgie: Then I am glad I did not let you down, I would not want to let you down.

I think anybody who has analysed the various areas of the ministry will know we are trying to do that in many areas. First of all, if you look at the province of Ontario land registration and identification system project, that is exactly what we are trying to do in the Polaris program, to convert those documents related to land transfers and mortgages and so forth into very simple language and reduce the necessity of a lot of excessive language that is not well understood by people. That is an area we are looking at.

12 noon

The insurance industry did move, as you mentioned, into some areas with plain language insurance contracts. However, I have to tell you that one of the problems they ran into with one of them is in interpretation of it by the courts. There are difficulties because certain court interpretations of language exist. Therefore, if you use those words, you know what they mean and you know what responsibilities and obligations flow from them. So some of those plain language insurance contracts were withdrawn because of legal problems that arose with insurers.

However, we are pursuing that in many areas, and wherever it is feasible to do so, we plan on doing it. I do not happen to believe we should have legislation that demands that we do it because it is just not reasonable in all situations to do it; witness the difficulty your member had in drafting a bill to avoid legalistic language.

Mr. Boudria: You must be reasonable. The bill from my colleague was not a bill to make legislation easy to read; it was a bill to make contracts easy to read.

Hon. Mr. Elgie: I think we should have a private member's bill to make legislation easy to read.

Mr. Eakins: I will take care of that.

Mr. Boudria: Maybe the member for Parry Sound (Mr. Eves) will introduce such legislation. The two issues are completely different.

Hon. Mr. Elgie: Of course they are.

Mr. Boudria: That was the subject of the article in the Toronto Star.

Hon. Mr. Elgie: There is no reason the public should understand legislation? That is the community party's position.

Mr. Swart: No reason when the Legislature does not.

Hon. Mr. Elgie: In the area of item pricing and the universal code and your concern about the errors, I was concerned about this area last spring, so we carried out a study during the early summer. We were surprised with the results and I think you, too, will be surprised.

Overall, shoppers were charged the wrong price with respect to advertised scannable specials 5.4 per cent of the time. Interestingly enough, where it was manually and visually done, the error rate was 7.5 per cent, and where it was done on the computer through the universal code, it was 1.9 per cent. So the error rate was much lower where the universal code was used as the primary way of costing items.

We met with the industry, and they have now set out again to try to introduce ways and means to correct those deficiencies. At least on the basis of our study, I think we are wrong. My understanding is that the errors visually were more and greater than the errors with the universal code. I am not supporting one or the other; I am just commenting.

Mr. Swart: Did you say you did your survey on sales and special prices?

Hon. Mr. Elgie: We picked out an area, yes.

Mr. Swart: That could be substantially different from any errors on general prices if the tags were on, I think you would agree.

Hon. Mr. Elgie: These tags were on.

Mr. Swart: Yes, but I mean on all other commodities the error could be much higher; at least, the individual's consciousness could be much higher in other areas. The study that was done previously showed that price consciousness.

Hon. Mr. Elgie: I am not getting into the argument of price consciousness with prices on; that is another issue. We are talking about accuracy when the bill is made up before you walk out the door.

We picked an area, and you have to pick an area. You cannot do everything, so we picked a segment. We picked the advertised specials because we thought those would be figures that the clerks at the checkout would be very familiar with because they were advertised specials, and that the customers would be very familiar with because that is why they went there and bought them. That is what we found.

I am not defending one process or the other because the industry has agreed that it is going to come up with ways to improve the error rate, wherever it exists.

Mr. Swart: Granted, they are two separate issues, but they are combined. I may have misinterpreted what you were saying, but I thought you were perhaps leading into the question of item pricing.

Hon. Mr. Elgie: No, I am not leading into that at all. We are talking about errors at the checkout counter.

Mr. Boudria: Before you leave the issue of universal pricing, I do believe, and I did say in my statement, that there was that secondary concern that was raised by the member for Welland-Thorold (Mr. Swart), and that is being able to estimate what the cost of your grocery order is or actually knowing what you are buying. If you go shopping occasionally, which I try not to but sometimes I have to as well, you spend some time in the grocery store.

Hon. Mr. Elgie: You are one of those guys whose wife stands behind you and not beside you, are you?

Mr. Boudria: Once you have a full shopping cart's worth, it is not that easy to estimate what you have there, especially if nothing has a price on it. It does fulfil that secondary useful function.

Granted, there is that other one that was raised and that you have just alluded to—the accuracy and so forth. Even knowing what you are buying is rather difficult. We do not all walk around with our favourite solar-powered calculator in the grocery store to figure what is going on.

If somebody is on a fixed income or something like that and his favourite grocery store is not equipped to cash cheques or any other consideration, I am sure he often has some unfortunate surprises at the cash registers. That is another concern.

The Acting Chairman (Mr. Gillies): I might suggest to members of the committee that if the minister is to finish his reply to the opening statement today, as I think we had hoped, it is going to be very difficult if we get into a full-scale debate on every issue.

Mr. Boudria: I will try to keep it short.

Hon. Mr. Elgie: In the area of propane conversions, you were talking about original equipment approved by the feds. We wrote to the federal government last May indicating we had some concerns about original equipment. We received a letter back from them dated May 11 from the chief standards and regulations, road safety and motor vehicles regulation division. They thanked us for it and said, "Regarding the matter of jurisdictional responsibility,

because these vehicles are under the control of the importer at the time the propane fuel system is installed, that fuel system is subject to the requirements of the federal motor vehicle safety regulation.

"Regarding the shortcomings you mention in your letter, we are in the main aware of these as a result of inspecting a Lada automobile last month. Accordingly, steps are being taken by our regulations enforcement division to correct this decision."

With the greatest respect, you indicated that although I opposed your views in the House, I then went on to copy them. We have been working on this, my friend, for many months. I do not want to detract from your capabilities and your ingenuity and the innovative qualities you display daily in the House, but I want to tell you that you were not the first out of the starting gate. There has been work going on for well over a year on this issue.

I can well understand that you feel there should be independent inspector processes and not simply adopting the Ministry of Transportation and Communications process. I have to say we are guided by the fact that it seemed inappropriate to us to have a duplicate and parallel system dealing with only one part of an automobile. Rather, it was more important to integrate that into an effective independent inspection process that already exists with the MTC program.

There may be criticisms of that program, and the minister and I have agreed that following next year's inspection program as it relates to propane vehicles particularly that we will then review the effectiveness of the program with respect to the propane aspect of it. That will go on.

You were disappointed that the Thom report was not ready. You and I have discussed that. I sense you understand that he is not trying to drag it out, nor are we. That is why we all agreed to renew the legislation that we did for another year.

I would remind you it is a two-stage study and the part 1 study will deal only with changes he recommends to the existing Residential Tenancies Act. The second part will go on to deal with whether there should be any changes in the way we approach rent review and rent considerations.

Mr. Boudria: It is actually a three-part study if you include that other feature you had requested of him in the beginning, which was this little study on the rent registry.

Hon. Mr. Elgie: Yes, but unfortunately those just did not arrive in time for us to deal with them in the House. I asked him to deal with two or three issues. One was the rent registry and I cannot recall the other two at the moment. Even if they are to come in today or tomorrow, that does not give us time to review them and to propose legislation that has been accepted by cabinet and caucus and then for it to be debated adequately in the Legislature.

Mr. Boudria: You are right.

Hon. Mr. Elgie: I think it all has to be dealt with as a whole package. I hope you agree with that.

Mr. Boudria: I do.

Hon. Mr. Elgie: I think you and I came to some common view with respect to mobile homes last night as we amended—

Mr. Boudria: Hear, hear.

Hon. Mr. Elgie: Quite frankly, it was an area I think our draftsmen had not considered. I was grateful you brought it to our attention.

Most of the complaints you had, I suspect, with respect to mobile homes related to the Landlord and Tenant Act.

Mr. Boudria: Yes.

Hon. Mr. Elgie: The Residential Tenancy Commission legislation does cover mobile home rentals.

12:10 p.m.

You said there is not enough with respect to mobile home parks. As you said, that is a housing issue. Also, with the power of municipalities to accept delegated authority with respect to planning, it has significant municipal control where those municipalities deem they want to accept that sort of responsibility. If the notice time with respect to them is too short, I think that is a matter you will have to raise with the Attorney General because that is now a Landlord and Tenant Act issue.

Mr. Boudria: I realize that, and he is responsible for that act. Nevertheless, it is an important residential tenancy type of issue as I am sure you appreciate. Notwithstanding the fact it is part of the Landlord and Tenant Act, that has important implications. There are many other issues just like that. I have raised that one as an example, the length of notice that relates to mobile home tenancy issues.

There are all kinds of others. I will raise one briefly. In a mobile home park, all mobile homes have what I think is called a tape. It is a feature that goes underneath a mobile home to

ensure that water pipes do not freeze and it is heated. If there is one resident in the park who goes away for the winter and turns off his electricity, everybody else is without water because the thing freezes up eventually in the winter.

There are all kinds of considerations like that, which were just never thought of in residential tenancy type legislation anywhere. I have brought all of these to the Thom commission. I spoke for about an hour, and the only thing I talked about was mobile homes and all the different issues and how the work is addressed by present legislation. At the time I appeared in front of Mr. Thom, he indicated to me I was the only person at that time who had even spoken of the issue of mobile homes.

I only raise that to indicate it is a good form of housing and that, collectively, we should all think of them a little more to afford them protection. They need protection even more than the others because they have the peculiar arrangement that a mobile home has; in other words, it is really a house and the tenancy is for the land and facilities.

Hon. Mr. Elgie: The next area you dealt with was the Board of Censors and I can only say this party welcomes you aboard the good ship. It is a luxury we have not experienced over previous years when the board has been subject to severe criticism. I recall your former leader saying, "Silly, antiquated, outdated laws fit for the days of Queen Victoria." I am not sure, but did she have legs or not? I never saw them.

Mr. Boudria: Perhaps you were, but I was not around then.

Hon. Mr. Elgie: In any event, as the member for Sudbury East (Mr. Martel) would say, I am glad you have set aside your Xaviera Hollander position in life, namely, that you will take any position that is offered to you, and that you have now joined the cause and agree with us as we endeavour to face these issues in what we think is the way the community would feel is appropriate.

The Acting Chairman: Clearly, I am not in control of this committee. We may have to adjourn for 10 minutes for grave disorder.

Hon. Mr. Elgie: The jurisdictional issue is a question. We believe we can have the power, but we also feel the recent court decision which questioned the authority of the censor board, even in its present role, will require legislative change and, therefore, the whole act will have to be introduced for change before we have

confirmed powers. As you know, that decision is under appeal, but we have to work on the assumption that we do not know what the end result will be, although we believe we were acting within that jurisdiction.

We are proceeding to look at that area. What the extent of the proposed submission to cabinet will be, I obviously cannot say at this time because it has not gone before cabinet, but our current position with respect to regulation, or rather the lack of regulation, of videotapes is a result of the rapid change in public attitudes we have observed recently.

There has been a dramatic shift in the viewing of films even over the past three years. Three years ago 70 per cent of films were seen in theatres. We are now down to about 40 or 50 per cent, and it is estimated that in another year or two it will be down to 20 or 30 per cent, with the balance being seen through videos, cable TV or the so-called satellite programs that are picked up on the discs, the latter two of which are not under our control, and I do not know what control one can have over discs.

Mr. Boudria: You cannot control the discs.

Hon. Mr. Elgie: It is an incredible problem. Several years ago, as members of this committee will remember, a significant number of members were opposed even to the censorship of films that we did have, so we really welcome the change and the shift that has taken place because we think it is an important area of public interest.

For some considerable time the mandate of the Board of Censors has been to censor only films. It has not been responsible for the content of films intended for private viewing. That has been a fundamental position we have taken in the past. What people choose to see in their homes is really their business.

I also see a shift in that position throughout the world. In the United Kingdom within the past week or two, legislation has been introduced with respect to videocassettes that are for private use. There seems to now be an understanding that in certain homes there may be even less control over what children see than there is at movie theatres.

Mr. Boudria: Especially if we have no way of even knowing what is in the stores. You give a child his weekly \$3 allowance and he can go use that to rent a particular movie and view it at some place where you do not even know he is viewing such a movie. You are absolutely right: the old rules do not apply to the new situations.

Hon. Mr. Elgie: We are looking at the whole issue. Again, I welcome the conversion. Acts 9:3-6 has particular relevance to your decision to take that position. We are pleased that conversion has taken place. How do I know? I will not tell you how I know that.

The Vital Statistics Act is an area where, as I said in my opening statement, we are looking at a proposal for some changes. I hope there will not be any problem in bringing in those proposals. It is not a straightforward, simple issue of which you suggested we might get speedy passage at the moment.

There is a cabinet submission on personal names being finalized that deals with recommendations of the reform commission on naming and recommends amendments to the Vital Statistics Act and the Change of Name Act.

The amendments would require a complete rewrite of the Change of Name Act. The main focus would be on modernizing the current provisions and taking the change of name process out of the courts. Other amendments would deal with ensuring equality in the naming process of the Vital Statistics Act; that is, selection of surname at birth. While these amendments in themselves are relatively simple, they are directly related to the accompanying new recommended provisions in the Change of Name Act and they would have to come in as sister bills.

If cabinet approval is obtained, it is anticipated that at a minimum it will take from three to four months to draft that legislation. I hope it will be in the House in the spring.

Regarding your specific reference to the Cynthia Callard case—the member for Ottawa Centre (Mr. Cassidy) raised it too—we understand that Mrs. Callard is now divorced and that the child's name could be changed under the existing Change of Name Act, although I am also led to believe she no longer lives in this province.

Mr. Boudria: Yes, she does. She still lives in Ottawa. She phoned me a couple of weeks ago.

Hon. Mr. Elgie: Is she formally divorced now?

Mr. Boudria: That I did not ask. I must say that is new information to me. I was led to believe at one point, because of a statement made in the House by your predecessor, that she had left the province. Once I introduced my bill, she was in contact with me from Ottawa.

Could I ask a question on that? Why is it not possible to change the Vital Statistics Act so as

to remove the reference to the choice of surnames? I understand California has that, and some other places. Obviously, the concern is, "If I am Smith and you are Jones, why should the son's name be Gillies?" or any other name.

The Acting Chairman: Poor child.

Hon. Mr. Elgie: Or Doe.

Mr. Boudria: We do not dictate to anybody how to proceed with the given names. Sometimes in looking at some especially new phenomenon in the way of given names—with someone in Texas naming his son Zippa-dee-doda or something such as that—I kind of wonder whether legislation is perhaps not needed there more than at the surname level.

Hon. Mr. Elgie: Maybe they want number names, my deputy just said.

Mr. Crosbie: We have had people ask for that.

12:20 p.m.

Mr. Boudria: I would not be surprised. Anything is possible. I understand with some south-east Asian groups there are even traditions whereby syllables from the name of each of the parents are used to make up the surname of the child. I may be corrected if that is inaccurate as to how some groups do it.

I also understand there is a Latin American group, especially in the southern United States, that uses the surname of the mother practically all the time. That is common practice for some ethnic groups. I fail to see what is wrong with that.

The question is, is it not traumatic to have the child's surname different from that of the parents? With the present divorce rate, I wonder whether it is not just a coincidence in many cases that they do have the same surnames.

I still feel it is unfortunate that we are going to have to wait for comprehensive amendments to all the legislation versus just removing that provision, which is really what my private member's bill has proposed.

Hon. Mr. Elgie: In the area of greyhound races, I think there is some misunderstanding. That was a private member's bill which, of course, died on the order paper two days ago.

Mr. Boudria: At the House of Commons?

Hon. Mr. Elgie: At the House of Commons. The federal Minister of Agriculture already has stated he is opposed to it and would not support it. It is not an imminent problem here. The previous minister has expressed his opposition to greyhound races.

On the matter of real estate and business brokers, again the main issue for you in spite of your conflict or because of your conflict of interest or whatever—

Mr. Boudria: I admit it is there.

Hon. Mr. Elgie: I do not care. It does not matter.

Mr. Boudria: I am not going to have her quit her job because I am an MPP.

Hon. Mr. Elgie: The same statement applies that I gave with respect to car salespersons. In that area, in terms of new issuances, we are now down to six days for salespersons and 14 days for businesses. There is the same problem with renewals.

It is the same process that was started in 1980, switching from one-year licences to two-year licences and starting the staggering process of those licences. We cannot possibly just hire large volumes of people for one month or one week a year and discharge them. Instead, we have chosen to try to stagger that process; so by the next time around it should be well in hand. There are delays now. I admit that frankly, and they involve a number of months.

Mr. Boudria: In so far as the new applicants are concerned, you say you have solved that one. In the spring I was getting calls all the time from new applicants. It was a difficult position for them to be in, not being able to gain income for no other reason than the fact that others were behind in their work.

Hon. Mr. Elgie: In the spring we had the same problems. I think it was running at an average of 20 days in the spring. That is not 20 days for everybody, because there were a lot of new applicants who had neglected to fill in certain things; they were sent back to them and then sent back. Then it had to go out for checks. For some it was much longer than that.

Mr. Boudria: I recognize that. They also changed their minds about which companies they wanted to work for.

Hon. Mr. Elgie: That is right. They changed their minds about companies they wanted to work for. One suggestion made to me by one of the members in the House was, "Why do you not grant a temporary licence immediately?" That would not fly because if you withdraw that licence, you have got a full-scale problem on your hands.

Mr. Boudria: I definitely agree with you, knowing that business. Do not do that.

Hon. Mr. Elgie: To confirm what I have been telling you, the Ontario Real Estate Association wrote to us November 16 to note that it had received "some positive feedback from large real estate firms that the individuals are receiving their licences relatively quickly now." Changes have been acknowledged and are taking place.

In the area of time-sharing, I can only say that at the moment the Ontario Law Reform Commission has a project under way with respect to time-sharing. We have jurisdiction over sales of time-shared title schemes from outside Ontario by virtue of the foreign lands section of the Real Estate and Business Brokers Act. We are also looking at the monitoring of club membership forms of out-of-province time-sharing to see whether legislation is required. The issue of time-sharing within the province is being addressed by the Ontario Law Reform Commission.

Mr. Boudria: Do you have any idea when they will report on that?

Hon. Mr. Elgie: Mr. Simpson, do you have any idea?

Mr. Simpson: I am sorry; I do not know.

Hon. Mr. Elgie: We can find that out, if you would like to know. Would someone make an effort to get that information?

Kickboxing: I think there is a need to clear up some misconceptions. The federal Criminal Code makes it an offence to have a prize fight and to box unless there is provincial law allowing and regulating it. Therefore, we did not issue a moratorium. We simply said we were not going to propose regulations with respect to kickboxing so it could be exempted from the Criminal Code until such time as we had carried out a review and had recommendations from that review with respect to the safety of kickboxing and whether it constitutes an unusual hazard above and beyond those that are normally part of ordinary boxing.

You will recall I have said in the past that I have never seen anyone kick off a football with his fist. It is clear to anybody who thinks about the issue that a kick, applied in certain circumstances, has a much more damaging potential than a fist.

To determine the accuracy of that and the extent to which it was true, a scientific study was carried out by physiologists and biometricians. Interestingly enough, instead of saying that they did not find anything, that they were just going to go ahead and license them now, they did find something. They found exactly what I said, that

the only time a kick applied to the head has no more force than a blow to the head with a fist is when a person is standing upright.

When a blow to the head with a kick was applied with the person upright, it had exactly the same potential for injury as a blow with a fist. If the head was at any lower position, the impact was much more serious, much more forceful and constituted an excessive risk for people to take.

Therefore, the regulations we are looking at will take that scientific finding into account. To say the study was useless or did not have any merit, I think is not acknowledging that this study is going to be presented as a paper before the American Association of Neurological Surgeons as an example of just what the force of a kick means. It only means the same as a blow with a fist when one is standing erect.

I think it was a valuable study. I think it is also valuable in an ancillary way in that it addressed the whole issue of boxing in society. You and I may have different view on that. Many people have different views.

I have said that I think we need to gather incontrovertible data in that area. That was one of the recommendations of the study, that any boxer who undergoes any blow that produces any altered state of consciousness—a boxer who is dazed or staggering—would be required to go through an examination consisting of a computerized axial tomography scan, an electroencephalogram, psychometric testing and a neurological evaluation, and that would occur every time there was such a blow.

At the end of a three- or four-year period, that data could be analysed and presented to the public so that it could consider with full knowledge the issue of whether boxing is important enough as a sport in society that we would continue to protect the testicles more than we protect the brain in boxing matches.

I think that is a valuable process we went through. I am also impressed, as you must be, that we now have every medical association in the country, in North America and in the world—most recently the World Federation of Medical Associations—recommending that boxing be phased out.

I am not saying we are going to do it. I am saying we need to put the case before the public in a knowledgeable and well-documented way. I hope you would agree with that.

Mr. Boudria: It has very little to do with the issue we are discussing, but it is interesting.

Hon. Mr. Elgie: Well, it does.

Mr. Boudria: The issue we are discussing is, why was there a moratorium? I do not have the Hansard in front of me right now where you made your original statement in the House, but I seem to recall you used the word "moratorium," saying a blow of the foot was 20 to 100 times the power of the fist, which was something of an exaggeration.

Hon. Mr. Elgie: No, it was exactly right.

Mr. Boudria: Maybe at ground level it has 20 times the power, but certainly not at any other height. Even looking at some of the statistics you have, I guess the highest you have at one point is 20 times; that is probably at floor level. It is nowhere near 100 times or anything like that. You say you did not use the word "moratorium." I will have to go back to Hansard to verify it.

12:30 p.m.

Hon. Mr. Elgie: I do not really care what word I used. I defined exactly what I meant. I said the Criminal Code did not allow it and we were not going to introduce regulatory approval procedures until we were satisfied that it could be done in a way that did not constitute any greater risk than boxing did, and at the same time there would be some remarks about boxing.

Mr. Boudria: Why did you put everybody out of business first?

Hon. Mr. Elgie: If they were in business, they were in business illegally. Are you recommending illegal activities?

Mr. Boudria: No, I am not.

Hon. Mr. Elgie: They had no sanction to exist.

Mr. Boudria: They were in constant consultation with your ministry. They had been in consultation with your ministry for months.

Hon. Mr. Elgie: About proposed regulations?

Mr. Boudria: About proposed regulations.

Hon. Mr. Elgie: When the issue of regulations was discussed at our cabinet, it was determined that we did not know enough about the safety of kickboxing to pass those regulations. I would hope you would behave that responsibly if you were ever faced with that issue.

Mr. Boudria: I agree with you in the sense that you would want it studied well and properly before you enacted the regulation, but you met with them regularly for a long period of time and then all of a sudden you said, "Well, guys, not only do we not want to meet with you any more, but we are going to put you out of business for

six months and have somebody else look at it." You could have done that a long time before, or allowed them to continue while your study was going on. Those are my views on it. I suppose we will never agree with it. It is done now.

Hon. Mr. Elgie: I appreciate your views. In any event, I do have to tell you with great sincerity that I take personal offence at the suggestion that what we did was because of a boxing lobby. I have never met with any boxing group, I have never had contact with any boxing group over this issue and I have never received any correspondence from them. If you think this minister or his staff responded to any lobby, I have to tell you I think I find that offensive.

Mr. Boudria: You are aware that has been stated on many occasions including—

Hon. Mr. Elgie: I am not saying what others have said. I am saying that if you believe that, I find it offensive.

Now, the travel industry compensation fund and the Air Bridge-Shamrock-Chieftain affair. Again, the ministry staff are here and can correct me. You have asked us for assurance that there is nothing wrong, pre-arranged or improper, and how people will be compensated.

I may deal with the latter first. It is our view that the fund is adequately funded to repay people, and that process should take place quickly once the board of directors meets, as it is planning to do on December 13. They then should be able to start paying out within what—six weeks after that?

Mr. Simpson: One week.

Hon. Mr. Elgie: Within one week after that they should start to receive payment. With respect to the whole affair, let me again go over it.

In April or May—I cannot recall the exact month—the company was acquired by Air Bridge. Air Bridge, as I understand it, is owned by two other companies that are controlled by a Mr. Moore, who also is involved in Worldways. I understand that the process he went through to do this is perfectly legal and that the Canadian Transport Commission is aware of that. I am not saying whether or not it we are questioning it, but as far as we are concerned there is nothing legally wrong with that process.

The management that was put in place was a management we thought was going to improve the situation and do a satisfactory job. When we sent in auditors in late August we found that they still had been unable to get their books in such a state that we could audit them adequately.

ly. It was agreed, since we were not unhappy with the management that had been put in place, that they would be given until October 23 or so to present that audited statement to us for our review.

In the meantime, towards the end of September, Sunquest indicated it would be acquiring this company, and that was confirmed about the middle of October. On October 7, their registration day came up.

Registration is not in any way an indication from the ministry that the company is super-duper and the world should take note of that. What we are saying is that they are registered and that one is protected under the travel industry compensation fund. We have to do that. If one's licence is in jeopardy, it is in jeopardy every day.

To refuse to register them because one still would not have received their audited statement, which one is not expecting for another two or three weeks, would have been to jeopardize everybody who had purchased tickets from them because they no longer would have been covered from the day they were not registered. It is not a hazard and a risk we are prepared to put consumers to.

Then events started to move along relatively quickly after that. Sunquest confirmed it was going to buy it. We also have found out since that Worldways took a debenture because Air Bridge was heavily indebted to it by this point with respect to purchases of flights and so forth. They took a debenture on the advice of their law firm—I can give the name of the law firm if the member really wants to know it, but he may not. I am not defending them; I am just pointing out the facts.

Then on November 7—it was a Monday—Sunquest indicated it was not going to proceed with the acquisition. We found this out on Tuesday and I think we moved very quickly. We put the machinery in process that eventually resulted in a receiver being inserted on Wednesday afternoon, and by Thursday we made our announcement. During those two days negotiations were still taking place with the receiver and Sunquest to see if that deal could not be reconstituted.

Whether or not there were any untoward activities by any of the parties are issues that will have to be determined when the receiver presents his report to the court. Of course, as part of the process we have our own interested people who are also looking at whether or not there

were any untoward events. That is really all I can tell the member at the moment.

Mr. Boudria: A question was raised in the House by a member of the New Democratic Party—I forget who it was—about the minister's officials not notifying travel agents on that very last day after the ministry had moved in. But it had, in fact, done so. Does the minister have any more information on that?

Hon. Mr. Elgie: All I have is the statement of Mr. Caven—and I think Mr. Simpson corroborated it—that on Wednesday morning people were told that any payment they made would be a decision they would have to make on their own. Is that correct, Mr. Simpson?

If someone was given other information it was not in line with any direction they had been given and it would have been a human error. We cannot find anyone who gave such alternative advice.

Mr. Boudria: Do they have the name?

Hon. Mr. Elgie: He had the name of some company.

Mr. Boudria: No, but of the ministry official who gave them that answer?

Hon. Mr. Elgie: No, I do not think they had the name of that. Do they have the name? Could Mr. Simpson come up?

The Acting Chairman: Yes. Mr. Simpson, perhaps you would come to one of the mikes.

Hon. Mr. Elgie: Do we have the name of the individual?

Mr. Simpson: Mr. Chairman, at that time there were only two people in the office who could answer telephone calls. One was the secretary who handles telephone calls quite often and the other was the officer who looks after the financial inspections, the processing of all of that kind of paper.

We have been over it with them quite extensively. It is interesting to note that they do not remember how many calls they had—they thought maybe half a dozen potential calls each.

They are instructed quite carefully. They all sit within eight or 10 feet of one another and as a matter of fact they can overhear the registrar barking out orders. They have been through this many times before. The message on the Wednesday morning was that you, Mr. Travel Agent or individual, have to make a business decision at this point as to whether or not you are going to forward money to the company.

I am told by the staff, and I have absolutely no reason to disbelieve it, that in one or two cases

the individuals calling said, "Okay, I do not think I will send my money." Our message was, "We cannot tell you at this point." That is the way it went—it was a telephone conversation.

The reason was that having put in the freeze late on Tuesday the discussions were still going on as to what would be the disposition of this company. The decision had not been taken. The decision was taken at noon, and at noon the message changed. Our staff were instructed to tell callers to hold off for 24 hours and not to send money. The staff carried out these instructions.

Mr. Boudria: So from the morning until noon it would be accurate to say that the message was not very clear, to say the least.

12:40 p.m.

Mr. Simpson: No, the message was, "Mr. Travel Agent, Mr. Travel Wholesaler, at this point you have to make a business decision based on what you have heard on the street." There were rumours galore.

Do not get the idea this is some kind of naive industry. As a matter of fact, we know that this industry operates on a grapevine that is unparalleled in any other industry in this country. A lot of people were stopping payment on cheques on Monday and Tuesday. It is a myth to think that somehow the messages were not being sent and the business decisions were not being made, even in advance of our determination of the company's fate.

Our people had to decide on the Wednesday morning. As soon as we say something which indicates it is over, it is over, believe me. The first time we tell anyone to hold off, it is over for the company. The company is dead. It is that sensitive a communication situation.

When we say, "Do not deal with them," they are dead. They are gone. It is over for them. So our people are very prudent as to when they make that announcement.

I might also say that when they started to announce at noon to hold off for 24 hours, that announcement preceded the public release to the rest of the trade by about six hours. There is no way, with all the discussions going on and the preparation of the papers and the receiver coming in, that we could make a public announcement until Wednesday night. So those callers who called at noon had six hours' advance notice of the fate of the company in effect and what they should do.

The Acting Chairman: Thank you.

Hon. Mr. Elgie: I might also say one of the problems that we tend to correct in the travel industry fund is that there now is no time limit on when people may submit their claims. So one of the difficulties we encountered in the Caltrav situation, that is Sunlight, is that claims were coming in months, sometimes up to a year or more, after the incident. Therefore, determining how much could be paid back to people was very difficult.

That is in the process. People have received 60 per cent of their money back and will receive a large amount—if not 100 cents on the dollar, pretty close to it.

In the area of trust companies, I have a rather extensive statement to make on that because the critic for the New Democratic Party took a lengthy time.

Mr. Boudria: I was wondering, would you mind making that statement when he is here, either Wednesday or Thursday, maybe as a preamble to start the whole trust issue? If that would be not better—

Hon. Mr. Elgie: We move out of the minister's office and we are then into financial institutions. This is a minister's office—

Mr. Boudria: As you wish, I just thought this was a way to maybe ensure that we could go through the rest of it before the closing.

Hon. Mr. Elgie: But you did refer to the fact that there was a total loss of faith in the industry and that investors would never proceed any more or just—

Mr. Boudria: I did not say that. I repeated a statement that was made—

Hon. Mr. Elgie: Let me just comment. This is a speech made by the president of the Trust Companies Association of Canada at the annual meeting of the Canadian Bar Association. He put himself on the line in public without any protection when he said: "From the outset, I would like to make it clear that the industry fully supports the action taken at both the provincial and federal levels. It was clear to the industry and to the regulators that action was vital to protect depositors in these companies and to ensure public confidence in their financial institutions."

He goes on to say: "In this turbulent, regulatory environment, probably one of the most obvious questions was: Has the Crown, Greymac and Seaway Trust affair had an effect on investors' attitudes towards trust companies? My opinion of the situation has not materially affected investors' attitudes towards either depos-

iting money or investing in their shares. The stock market is certainly a good barometer of investors' confidence in trust companies.

"It is interesting to note that the trust and loan index has increased substantially above the TSE composite index. The share value of the trust companies listed on the TSE has increased dramatically since the first of the year. Similarly, during this period the association monitored trust companies from coast to coast, including small, medium and large trust companies. There is no evidence to indicate that there were heavy withdrawals or a run made on any of the companies. The public appears to be aware of the fact that the problem was not common to the industry but was an isolated situation involving these three companies."

You also commented on Dennis Timbrell's letter, and I would like to say that even the gentleman who appeared acknowledged that the initial remarks with respect to shareholders referred to common shareholders. On page 2, the fourth paragraph, his views with respect to preferred shareholders were outlined. That individual agreed that that was what the letter meant. To refer to Mr. Timbrell's letter in the way you did, does not reflect what took place in this committee when we look at the Central Trust bill.

In the area of franchise laws, the Grange report in 1971 did recommend three things: legislation with respect to pyramid selling; with respect to referral selling; and with respect to franchising. Legislation dealing with pyramid selling and referral selling was introduced immediately. The issue of franchising was not because it was still not settled in our minds that such a law was necessary.

We are now reviewing the whole issue once again. It is really a matter of how far one should go if one is going to enter into the area of franchise laws. The views on it range very broadly, from those at one extreme who say do nothing—it is working fine—to those who say go all the way and have a securities commission type process with a prospectus.

A wide range of things have happened in the United States, with the federal government requiring a disclosure law and a cooling-off period, as I recall. The majority of states have dealt with it following that lead and a minority has gone further and introduced a prospectus type of proposal.

We are looking at it. If we are to proceed with it it will be subject to recommendation. But I happen to think at this stage of the process that

disclosure with cooling-off and perhaps some other elements added is probably an appropriate first step. But whether a second step is needed or not is something I think one should wait for until it has been evaluated.

The great need, as we all know, is for uniformity of laws in franchising in this country. If different laws were introduced, franchisers would face different problems in each province. We have held off for some years now hoping the uniform law commission, which has been looking at this, would come up with some positive views on what a uniform statute should be.

There has been great delay in reaching agreement on that, but in spite of that we are proceeding with a review and a proposal to my colleagues.

Mr. Boudria: Perhaps I can just add one thing to that. I would like to draw attention to an article I picked up from the *Toronto Star* dated March 7, 1982, about an outfit known as Global Foods—or something like that. They put out an advertisement claiming they had 338 outlets across North America, and saying they were second to McDonald's—or something like that.

However, a study showed they had only a few outlets. They did not own most of the things they said they had at all. They had claimed T. Eaton Co. Ltd. and an assortment of other famous people as principals in their company and it was all nonsense.

I guess this shows how the disclosure laws are important. We should have them at least, if we do not do anything else, when people are fed inaccurate information—I think “inaccurate” is a compliment in this case. I am sure the official sitting beside the minister would agree this example really epitomizes how things can go wrong.

In May 1982 the *Toronto Star* had an editorial on the need for franchise law. I also read something in 1981 about 700 people losing money in the failure of franchised firms. There is the Hunt's incident—is it Hunt's Bakeries? They had franchised bakeries here and there. Those do exist, but in this case the information is different. They are led to believe they are going to make a whole bunch of money and none of them have ever realized anything that even resembles what they are supposed to achieve.

I would like to add that I hope the minister at least will give some direction on this for the province, although I recognize he may not want to go all the way to legislation. After all, we are the largest province in Canada—in business,

population and just about everything else. It is strange that many American states and a smaller province than ours, Alberta, would have taken care of this, yet we have not moved at all to this point, some 12 years after the Grange commission—was it 1971?

Hon. Mr. Elgie: Yes, 1971.

Mr. Boudria: That is 12 years.

12:50 p.m.

The Acting Chairman: Have you any comments on the Global Foods chain, Mr. Simpson?

Mr. Simpson: Just very briefly. I think your comment on that particular situation is quite apt. When we have things like that, they are outrageous, to say the least. They may or may not be fraudulent in the extreme, but if they are fraudulent then you have the Criminal Code which is there, has always been there, and will be there.

One very difficult thing when you start to look at developing a law and dealing with certain situations is that, when you develop your statute and try to deal with misrepresentation and things like that in a fast-moving area such as the retail market, it is extraordinarily difficult sometimes to disentangle what you might consider to be misrepresentation from what is in fact the legitimate impact of changes in the market.

You know, there are certain kinds of businesses where, when a franchisor hatches his business scheme and develops his franchise system by advertising, promoting and soliciting franchisees, it is based on a good-faith basis, on what business potential he projects. I think the best example of that kind of situation is one you have talked about here, the video stores.

Two years ago, in different offices in this city, or in Ontario or any province for that matter, there could have been six different teams of people coming up with a franchise system. Each one would be based on certain marketing assumptions—what they would sell, how many outlets they could have, how much business they would do—except that each one was working independently of the others.

Their business projections and assumptions may not have been in bad faith at all, they may have been made in the best of faith, but the realities of the marketplace are such that none of them have worked out as well as they thought they would.

All I am saying is that, in the context of judging something good, bad or in between, it is very difficult at times to disentangle these two things.

Mr. Boudria: I recognize that. But being the expert in that area, you should know that it is possible if you start off with erroneous facts in the prospectus being issued, to come up with incorrect answers. At least, if you have correct information to start with, chances are that you will have a better idea of what is going on.

Going back to Global Foods and the people who were associated with peddling across the province restaurants they called Burger World, it seems that nothing was correct in what they were saying. That was a really terrible example of how people seem to be getting away with highway robbery.

Hon. Mr. Elgie: As I said earlier, that is an area that we are looking at now from a policy point of view.

Mr. Chairman, I do have some lengthy remarks because the NDP critic, the member for Ottawa Centre (Mr. Cassidy) dealt quite extensively with the area of trust companies. I have an extensive response, but I will not read it today. Instead, if I may, I will reserve that for Wednesday morning and try to clean up very quickly the other issues he raised.

On rent review, the member for Ottawa Centre decided to reserve his comments until we got to that section of the estimates.

He expressed concerns about financial institutions in general. I would hope that, having read the white paper thoroughly, he would recognize that one of the roles of the proposed commission for financial institutions, in addition to being a watchdog over those institutions on behalf of the public, is to review the statutory basis and functioning of the various sections of the financial institutions division. What we are proposing would give us the kind of ongoing review on a regular basis of the institutions and of the legislation.

He also commented on the need for greater disclosure and obligations to society, for employees, trade unions, investors and others. This is an area that I, too, am concerned about. We are now in the process of preparing a position paper on it. I hope that it might be approved, that it be issued as a green paper on the whole issue of financial disclosure and in the area of beneficial ownership, which has been of great interest to members in the House and to me.

That is an issue we are well down the way in preparing and I hope it will not be too long in coming.

The matter of the Ontario Share and Deposit Insurance Corp. employees was dealt with in detail the other day.

In the area of Sunday openings, I welcome the member's view that all of us have an obligation to look at this issue and I agree with him. However, the fact of the matter is that it falls within the Retail Business Holidays Act. It has been a matter of extensive discussion in the estimates of the Solicitor General (Mr. G. W. Taylor) and was answered by him pretty fairly in the Legislature today after question period. Was the member not there?

Mr. Boudria: I am sorry, I was not.

Hon. Mr. Elgie: He dealt with it at great length in response to a question from the member for Oriole (Mr. Williams).

I have dealt with the Cynthia Callard situation and the Vital Statistics Act. I also made reference to the lemon law—or the lemon-aid law as it was called.

In the area of the Housing and Urban Development Association of Canada new home warranty program, the member was particularly concerned, as many of us are, about the situation with respect to those who have deposited \$10,000 on land. This is the Tri-M matter—Tri-M was the company and I forget the name of the developer.

The issues there are legal issues. They revolved around a delay clause in the bill and the right to transfer one's proposed ownership that was achieved by laying down a deposit.

In any event, we are very sympathetic to the issues facing those people. I think it is tragic and we are exploring all avenues possible—and we are doing that diligently—to see if there cannot be some way around it.

We have dealt with greyhound racing and the area of pornography and video cassettes. However, I sense that our colleague from Ottawa Centre has not walked down the same road this member and his party have walked down.

Mr. Boudria: I still do not know what he—

Hon. Mr. Elgie: I still do not know what he was talking about. I do not even know the definition of standard sex; perhaps he does.

Mr. Boudria: I do not think I want to participate in that discussion.

Hon. Mr. Elgie: He also, ironically enough, said the United Kingdom was the only jurisdiction that has solved it. In fact, the United Kingdom has not solved it but has now introduced legislation that would, in effect, give the same sort of powers the censor board here has but in a much broader way. So I think he is ill-informed on that.

I do not accept his criticisms of Mary Brown

and I do not accept his criticisms with respect to *The Tin Drum*. It is scarcely three years ago that some in the opposition parties wanted to carry out that board and its chairman on a rail with tar over their bodies.

I think it is important that societal views, as reflected by the members on behalf of their constituents, now appear to be changing. They seem to be coming more in line with the views which those people, who I think have done a commendable job, have taken over the years.

Regarding the affirmative action program in the Liquor Control Board of Ontario, LCBO personnel statistics indicate that the ratio of job applicants for vacant positions has been approximately two to one in favour of males since 1981. The hire and promotion ratio for the same period has also been two to one, male to female. So the promotions have been exactly in line with the proportion of people applying for jobs.

From 1982 hard data indicates that 8,658 applications were received from males and 3,460 were received from females, a ratio of 2.5 to one. The LCBO is moving towards a more equitable ratio of male and female employees. However, in an organization of this size it is difficult to effect global changes quickly, due to tenure, general staffing characteristics and union agreements.

It should be noted as well that a great deal of the LCBO's new full-time employees come from part-time ranks and the ratio of females holding part-time positions with the board is constantly increasing. The LCBO management, the affirmative action co-ordinator and the minister are committed to affirmative action initiatives in that division.

1 p.m.

The member referred to brew pubs—really, to more than brew pubs. He talked about micro-breweries and brew pubs, and they are quite distinct. A micro-brewery makes beer for

distribution through some process; a brew pub makes beer for distribution through its own pub. Both are in existence in British Columbia on a trial basis to see how they work.

We are looking at the issue now and the LCBO and the LLBO are considering the pros and cons of it. If we feel it is possible and reasonable to do so, and if appropriate distribution processes can be provided, we will certainly give it consideration. But I am not giving any commitment now as to whether or not we will proceed with it.

The Acting Chairman: Minister, I might suggest—

Hon. Mr. Elgie: I have two little items here if I might just finish them off.

The criminal law with respect to lotteries has not changed over the years. It is only allowed in the area of charitable and religious purposes. Although some may consider that party to be a charitable purpose, I am not one of them. I do not believe the ideological odyssey the member for Ottawa Centre is always on should be viewed as a religious enterprise nor as a charitable enterprise.

Mr. Boudria: They are very pious.

Hon. Mr. Elgie: Therefore it is beyond our power to do anything about that.

I think the area of the pension commission has to be dealt with briefly, Mr. Chairman—or can I?

The Acting Chairman: It is after one o'clock. Is it a lengthy one?

Hon. Mr. Elgie: It is, so I will leave it.

The Acting Chairman: Is there any other business to come before the committee?

We will stand adjourned until Wednesday next at 9 a.m.

The committee adjourned at 1:01 p.m.

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- Crosbie, Mr. D. A., Deputy Minister
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No. J-19

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice
Estimates, Ministry of Consumer and Commercial Relations

Third Session, 32nd Parliament
Wednesday, December 7, 1983

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, December 7, 1983

The committee met at 9:16 a.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

Mr. Chairman: The meeting will come to order, and minister, I think you are continuing your response.

Just before you start, I understand there will be a fire alarm practice at 9:30 a.m., and we will all have to evacuate the building for a few minutes, so when the alarm goes we will just recess for five minutes.

Minister, please continue.

Hon. Mr. Elgie: I have some information here for Mr. Boudria, but I will wait until he comes, Mr. Chairman, if I may.

I did delay my somewhat lengthy response on the trust companies issue because the member for Ottawa Centre (Mr. Cassidy) was not here, so I will proceed with that today if I may, Mr. Chairman.

We did get through pretty well everything else, Michael.

Mr. Cassidy: Yes, I have a transcript of the remarks.

Hon. Mr. Elgie: The trust companies and pensions are the areas I will address this morning.

Mr. Ruston: Mr. Chairman, I neglected to mention that Mr. Boudria will not be here today, so if you want to go ahead—

Hon. Mr. Elgie: Maybe I will just put this answer in.

The member for Prescott-Russell (Mr. Boudria) raised a question about the Ontario law reform report on time-sharing and when it would be completed. One of my staff spoke to Ann Merritt, a lawyer with the Ontario Law Reform Commission, who is responsible for the report on whether Ontario should have time-sharing legislation. At this time, she estimates the final report will not be completed until the spring of 1985. There will, however, be a first draft, a working paper, ready in the next few months.

The member for Ottawa Centre opened his remarks on the trust companies by making comments that I think imputed to me the motive of protecting Tories as the reason that action

was not taken on these trust companies. These remarks clearly demonstrate the biased—

Mr. Swart: Never.

Hon. Mr. Elgie: That is right. "Never" is right.

These remarks clearly demonstrate the biased and unreasoned position the member has taken with most of the remarks he has made about the trust companies matter. Has he forgotten that possession and control of Crown Trust Co.'s assets were taken by the registrar just 92 days after ownership was transferred to Greymac Credit Corp.? Has he forgotten that this action has been characterized by some as being draconian, and in many ways extraordinary?

Does he now realistically wish this committee to believe that my response in this matter was designed to protect Tories associated with Crown Trust? If he does, I seriously question his value system.

The member has suggested Ontario's reputation in the trust industry has suffered from the ministry's action. I would like to tell him, and this committee, that our actions have received strong support in other Canadian jurisdictions and we have been praised for having the will to take such a controversial step.

In this regard, let me quote from the address of William W. Potter, president of the Trust Companies Association of Canada, which was given at the Canadian Bar Association meeting August 31 of this year. I quote:

"From the outset I would like to make it clear that the industry fully supports the action taken at both the provincial and federal levels. It was clear to the industry and to the regulators that action was vital to protect depositors in these companies and to ensure public confidence in their financial institutions.

"The whole scenario was most unusual and drastic, and immediate action was needed as present legislation does not provide the necessary authority for emergency measures.

"In this turbulent regulatory environment, probably one of the most obvious questions would be, has the Crown/Greymac/Seaway trust affair had an effect on investors' attitudes towards trust companies? In my opinion, the situation has not materially affected investors'

attitudes towards trust companies? In my opinion, the situation has not materially affected investors' attitudes towards either depositing money in trust companies or investing in their shares.

"The stock market is certainly a good barometer of investors' confidence in trust companies. It is interesting to note that the trust and loan index has increased substantially above the Toronto Stock Exchange composite index. The share value of the trust companies listed on the TSE has increased dramatically since the first of the year."

Mr. Cassidy: I will not interject, but I just want to inquire about one point. My comments were entirely directed to the failure of regulation prior to the action, not to the actions taken in December and subsequently over the last year.

Hon. Mr. Elgie: To continue: "Similarly, during this period the association monitored trust companies from coast to coast including small, medium and large trust companies. There is no evidence to indicate that there were heavy withdrawals or a run made on any of the companies and the public appears to be aware that the problem was not common to the industry. It was an isolated situation involving these three companies."

On the same topic I would like to quote from a paper prepared by Robin Cornwall, director of McCarthy Securities Ltd., and I quote:

"Has the Crown, Greymac and Seaway trust affair had a material impact on investors' attitudes towards trust and loan companies? It is my opinion that the situation has not materially affected investors' attitudes towards either depositing money in trust companies or investing in their shares.

"In fact, what has impressed me most about how the situation has been handled by the trust industry is that instead of running and hiding in the woods, many of the smaller trust companies have expressed the desire to broaden their shareholders by making public issues, or have approached the credit rating agencies in order to have their company rated, and thereby show that they indeed are very solid."

The member for Ottawa Centre also raised the question of accountability in general, and my accountability specifically.

Unlike him, I take the positive view of what has been accomplished. The member has no experience with the administration of even a simple ministry, let alone a complex one like this. He has never had the responsibility for

taking the type of action which with hindsight he is now able to say should have been taken sooner.

He has never had to weigh the impact of regulatory action on the marketplace, or on shareholders and depositors affected by decisions. He can characterize as evidence of incompetence or mismanagement the time taken in the process of developing a sound set of facts and law in which to act. He now has an insight that leads him to discard the wisdom of the Porter royal commission on banking in 1964, which noted, and I quote:

"Regulation cannot guarantee that there will never be incompetent, negligent or even dishonest management in the financial system, unless every transaction were to be investigated ahead of time, and economic life brought to a complete halt."

He would have the ministry review each and every transaction entered into by a trust company. He now has more wisdom than the royal commission on Atlantic Acceptance Corp. which in its report of 1969 stated, and I quote: "The expression 'gentlemen's agreement' has been used by former registrars to describe their understandings with the heads of companies and the implementation of policy or varying a strict interpretation of provisions of the act. There is no reason to change the spirit of this relationship because of a few exceptional cases, one of which has been the subject of close examination by this commission. It is unlikely that long established companies standing for prudence and reliability in the world of finance will jeopardize their reputations if their legitimate aims are supported by knowledgeable and flexible government regulation, designed at once to encourage the industry and protect the public."

Unfortunately, the administration in my ministry did not possess the hindsight which is now available to others. They were carrying on the administration of trust companies in a way that generally reflected the approach suggested by two previous royal commissions. What is interesting about this is that the member, having rejected the advice of two royal commissions, is now suggesting that we should have a third one.

In addition to the obvious inconsistency, I would also point out that the Atlantic Acceptance royal commission was appointed after a major collapse had occurred, and it took four years to complete its report. By contrast, action was taken in respect of the trust companies here while they were still in business, and our reports,

including a white paper on recommended improvements, are ready for discussion by this committee less than 11 months after the events of January 7, 1983.

Further, our actions have resulted in all arm's-length depositors having the return of the full amount of their deposits, even those amounts that were not insured under Canada Deposit Insurance Corp. were guaranteed and returned to them.

This is not, to borrow the member's words, an example of disastrously bad management, and I will return to his comments on the internal report in a moment.

While we can all fervently wish to have the opportunity to do certain things differently, after we know the true state of affairs that we were dealing with, that does not imply that what was done should be condemned.

I am prepared to accept my responsibilities in this matter, and I believe I have done so. The member for Ottawa Centre has a different view. I am content to let the democratic process, namely the electorate, decide who was right in this case, and I wish to make it clear that I intend to put myself to that test.

The member for Ottawa Centre has also said I ignore the trust company matter in my opening statement to this committee and I am therefore treating it lightly. Had he been here last week he would have known that we spent many hours in discussing the Central Trust bill and the position of the preferred shareholders of Crown Trust, and went beyond that.

In addition, I have continually issued statements on every aspect of the matter. I do not know of any other matter that has resulted in such full disclosure in the House of our intentions and our actions. My last statement in the House was as recent as November 15 when the white paper was tabled.

For him to suggest that I have not pursued this matter vigorously and responsibly can only be a reflection of a new-found interest on his part that leaves him with little knowledge of what has been going on in the House, in the courts and in my ministry.

Our entire effort has been, in spite of the restrictions of massive litigation, to produce on a timely and immediate basis as full and complete information as possible. Indeed, it is interesting that the information the member possesses appears to have come for the most part from this government in the form of

ministerial statements, the Morrison report, the white paper, the special report of the registrar and the internal review and response.

I would now like to return to his comments about the internal review which he accurately described as a commendable document. Unfortunately, he chose to read it selectively and, in some instances, inaccurately.

For instance, the member did not read the introductory paragraph of the conclusions and recommendations which said: "The loan and trust examiners have executed their responsibilities in a manner consistent with the objectives of the financial examination services branch and the requirements of the existing legislation, with the exception of sections 110 and 111 of the act relating to estates, trusts and agencies."

The member for Ottawa Centre said the internal review disclosed that the examiners in the loan and trust section spent only 50 per cent of their time on their duties, and that the review staff could not determine how they spent the other 50 per cent. This is a gross misrepresentation of the internal review.

The review in fact said: "An analysis of the time spent on the examination activities during 1982 revealed that approximately 40 to 50 per cent of available work days were spent on other assignments. It could not be ascertained whether the resources were all utilized on productive assignments."

Surely the member recognizes the difference between an observation that it was not possible to ascertain whether resources were always used productively and a conclusion or suggestion that for half of the time they were not working. I think he suggested they might be at Christmas parties or the nature of their work was not known.

It appears to me that in his reading of the review he has interpreted the recommendations that will improve the efficiency of methods and operations as findings that there was no adequate process in place.

For example, he concludes it is only the junior examiners who are out on the job in the companies. The review clearly states that the examination staff has a diversified professional background and considerable experience in loan and trust affairs.

It recommends continued professional training; it recommends efficiency improvement; it recommends greater controls. It does not state the corollary that this is an inefficient operation

or that there are no controls, as the member seems to interpret the review.

In this regard, I would refer to the Morrison report which found that: "The examination and reporting process carried out during 1981 and 1982 by the registrar in respect of Greymac Trust and Seaway Trust, and by the superintendent in respect of Greymac Mortgage and Seaway Mortgage, identified the key problem areas. These areas were discussed with officials of the companies who procrastinated in taking corrective action."

[Fire alarm]

Mr. Chairman suspended the proceedings of the committee at 9:29 a.m.

9:38 a.m.

Mr. Chairman: The meeting will come to order. The fire drill is over and the committee members will return to their proper seats. I think the recorder is ready. Minister, you can proceed.

Hon. Mr. Elgie: Continuing the quotation from the Morrison report, again I quote: "The examination and the reporting process carried out during 1981 and 1982 by the registrar in respect to Greymac Trust and Seaway Trust, and by the superintendent in respect to Greymac Mortgage and Seaway Mortgage, identified the key problem areas. These areas were discussed with officials of companies who procrastinated in taking corrective action."

"A number of areas of concern were identified which, with the co-operation of management, could have been dealt with fairly promptly if there had been the will on the part of management to do so."

The member stated that no attention had been paid to the management by results reporting requirements for over seven years. This is a government process designed to measure productivity of the branch. If he would look to the response of the registrar he would find that there is a system in use, and it is the second one developed since the introduction of MBR.

The difficulty in measuring a regulatory function, that is how long an examiner should spend on a company on a unit time basis, is recorded. Notwithstanding this, the division is attempting to develop a meaningful measurement system that will assist in the allocation of resources necessary to complete its regulatory assignment.

The member makes reference to the fact that the act does not provide for a standard of duty of care of directors. He also indicates that some-

thing must be done about other professionals concerned in the trust company affair.

9:40 a.m.

I would refer him to the white paper. There are considerable and well thought out proposals dealing with this issue. I am hopeful this committee will carefully consider the whole area of responsibility of directors and professional advisers to financial institutions and adopt appropriate recommendations.

He makes reference to an article in the Financial Times, in August 1983, in which an unnamed source indicates the registrar did not want the Canada Deposit Insurance Corp. to cancel deposit insurance, because this would involve the CDIC in a provincial matter, and that the registrar was jealous of his powers.

The registrar advises me he is completely unaware of ever stating that the CDIC should not act, but let me explain the process.

It would be necessary to identify an unsound financial condition of a trust company. The CDIC, having identified that particular financial condition, would then give notice to the chief executive officer of the financial institution concerned, requiring the officer to place the notice before the board of directors within 30 days. The institution is then given 60 days to correct this situation.

If this procedure were applied to Crown Trust Co. on November 8, 1982, at the time of the loans on the Cadillac Fairview Corp. Ltd. properties, and without a proper determination of the facts, the company would have had until February 6 to take whatever action it felt best suited its ends.

The member for Ottawa Centre recommends this course of action. At the same time, he criticizes the ministry for not acting sooner. He has at great length referred to cases from the Morrison report, concerning investments made during 1982, in connection with all three trust companies.

May I again remind him that the source of his information is that provided by the government. May I again remind him that Mr. Morrison was appointed by the registrar and by myself, under separate appointments, to review these very transactions which were appearing on the records of these companies.

It was our view that the most effective way to determine the significance of the facts that were being uncovered by ministry staff was to have a very senior financial person appointed with the resources of excellent legal counsel and the authority of the Public Inquiries Act to review

the facts and to report on the pattern that seemed to be emerging out of these transactions.

Let me repeat a point that we have endeavoured to make clear in the white paper, by reference to the statement from the Porter royal commission that, "Regulation cannot guarantee that there will never be incompetent, negligent or even dishonest management in the financial system, unless every transaction were to be investigated ahead of time and economic life brought to a complete halt."

This is the tradeoff we must have to allow our financial institutions to operate. It is, therefore, grossly unfair to impute knowledge of mortgage transactions to the regulator, before or at the time they are made. That is the responsibility of management. The role of the regulators is to review that performance.

Our concerns during 1982 were such that we ordered a special examination report of the entire affairs of the three trust companies and the two federal mortgage corporations with the resources necessary to do so.

Let me now deal with the question of increases of capitalization of these companies. To fund their operations these companies required either an increase in the borrowing multiple, which in the case of Seaway Trust Co. was at the bare minimum of 12.5, and in the case of Greymac Trust was 15 times, or else the owners were required to place additional capital into the company.

Mr. Morrison's report has clearly set out that both Seaway Trust and Greymac Trust made many requests for increasing the borrowing multiple. As Mr. Morrison clearly states, these requests were repeatedly denied.

In other words, they were not to be allowed to increase deposits with the same capital base. The only recourse, therefore, was to increase the capitalization, and this was in fact done. Under normal circumstances, it would be expected that increased financial commitment by the owners would produce a commitment to better look after the affairs of these companies and their depositors.

The other comments of the honourable member, concerning better disclosure, the concept of material change, insider trading reports—to which they are already subject, I might say—are matters which I would hope he would pursue when consideration is given by this committee to the white paper over the ensuing months.

The member for Ottawa Centre also had a number of questions and comments with respect

to the area of pensions. For instance, he said there was no separate annual report.

Up until a few years ago, the Pension Commission of Ontario did have a separate annual report, but this separate reporting was discontinued in favour of a consolidated report to the ministry. The figures and details are available, so if there are any special statistics or information that anyone would like, I would be quite happy to supply them, and so would members of the staff.

In regard to pension reform policies, the member for Ottawa Centre spoke about the 10-year deliberations on pension reform and, in particular, the need for earlier vesting and portability of pension benefits when an employee leaves one employer to work for another. At present the Pension Commission of Ontario is working with the Treasurer's office to finalize Ontario's position on pension reform. As Minister of Economics, the Treasurer is responsible for pension policy in this province.

In a speech to the Canadian Life and Health Insurance Association on November 29, 1983, the Treasurer made his first pension address. He prefaced his speech by saying he believes pension reform is one of the most important and far-reaching economic and social issues to be faced in this decade. In the highlights of that speech he made reference to the expected release of the Frith report in December and said, among other things, that 1984 will be a critical year for pension reform in Canada, that earlier vesting is necessary and that pensions should be portable.

Comments were made on the security of pension assets, on employee representation and input into financial decisions and on audits of pensions funds. The member for Ottawa Centre remarked that the assets of Ontario pension plans approximate \$28 billion and are as large a pool of capital as the trust companies' funds. It was suggested that the investment regulation be updated to reflect more current times.

He also raised the need for more aggressive investment management; more quality fiduciary responsibility, to generate comparable and stable returns from plan to plan; investing in venture capital; financial disclosure to plan members; employee representatives on pension committees and boards; social investing to accommodate special groups; investing in companies and jobs, and audits of pension funds.

I will review some of these issues.

First, security of pension assets. The investment regulations are designed with both quali-

tative and quantitative restrictions because uppermost in the minds of the architects was the security of the members' benefits. Notwithstanding this, the choices are very great and give the pension fund investor great flexibility. There is, in addition to these qualified investments, the speculative "basket" clause into which pension funds may invest up to seven per cent of the assets. Almost without exception, this basket clause or the use of it is never at its maximum, the main reason being that employers view pension funds as almost sacred and not for speculation.

The Pension Commission of Ontario has responded to requests from the investment community for change. One recent example of this was a change concerning pooled real estate funds. Another we are looking at is investment in resource properties. The member also discussed the rates of return on these funds. We have given the flexibility necessary by setting investment standards and criteria, but must leave it up to the plan sponsor, the actuary and the investment manager to design a portfolio and its mix of investments to accommodate a particular philosophy, plan and its membership.

Most important, though, it must be remembered that these measurement statistics are generally related to a limited time frame and give little or no recognition to a particular plan or philosophy, or to the very long-term nature of a pension plan. In any event, as the cost to the employer is lessened as the yield rate increases, it is a must that investment managers maximize the fund earnings. Failure to do so means almost definite replacement.

When it comes to employee representation and input into financial decisions, certain financial disclosure is currently available upon request. The employee has access to the balance sheet, assets and liabilities.

I believe we will, in the not too distant future, have employee representation on pension boards. Several large companies are already operating this way even without mandatory legislation in this area. We have the necessary authority to pass regulations to assist companies and save jobs, as was done, for example, in the Fittings case, at the request of the trade union.

9:50 a.m.

About two years ago, the pension commission circulated for comments an exposure to the industry on proposed amendments concerning the audit of pension plans. The audit proposal has greater depth and scope than the existing regulations of other jurisdictions.

Not only is an audit of the pension fund proposed, but also an audit of the entire information-reporting, collection-funding and calculation of benefits subsystems. It is also proposed that employees will be able to request a copy of this audit report. The pension commission expects this to be part of the reform package.

This completes my comments, Mr. Chairman.

On vote 1501, ministry administration program; item 1, main office:

Mr. Cassidy: Mr. Chairman, since we are on the main office, perhaps it might be possible to pursue one or two points that have been raised by the minister in his responses, and it might be appropriate to do it here, if I could have the floor.

It has been some years since I have handled estimates. I appreciate that, even if we may have differences, the tone of the minister's response with respect to pensions was positive. I would like to take up the minister's offer of getting more information about the pension commission at some future date after the estimates, because I really do not think there is time to do it here. I do believe the information should be available more than just on request or during estimates, so I would repeat the need for a separate and much more comprehensive report from the ministry.

I just repeat in that line what I said before. We have a \$30-billion pool; it is drawing at \$5 billion or \$6 billion per annum in Ontario alone, double that rate in Canada as a whole.

I was raising a lot of questions there because I just do not know what the answers are, but I think I indicated the potential concern because of evidence in other areas that your ministry's management has not been as effective as it should have been.

You said that employers treat pension funds as sacred and not for speculation. However, that has been the way the trust companies traditionally treated their business as well; it was a widows and orphans type of business, which was seen to be sacred and not for speculation. But some smart operators came along, saw an opportunity, moved in and found that there was an area there that seemed to be ripe for the picking a long time before they finally got stopped in their tracks.

I cannot say what is happening in pension funds, but I think a greater concern is required. You might think of having an internal review in that area before some disaster strikes rather

than afterwards. That is all I have to say on that area.

On the matter of the trust companies, though, we will be going into some of the questions tomorrow on the vote, but it is clear to me that I may have touched a nerve in some of the comments I made, judging by the tone and nature of the minister's response in that area.

I point out that I concentrated on the internal management of the ministry. The minister kept on citing the fact that I had relied on ministry sources; that is, the Morrison report and the internal report. Of course I did. The nature of parliamentary government in this province is that there are not an awful lot of other things you can rely on, and the tight-fistedness of your beloved leader has led to a situation where members of the opposition inevitably have to work with limited resources in doing research in areas as complex as this one.

I also felt there was so much that should be put on the record coming out of the Morrison report and the internal review; they spoke for themselves. I have been around long enough to know how to read things between the lines as well, and the internal review in particular I thought was just devastating in what it revealed about the failure of management within the trust companies branch.

Not everything was put there. The minister, for example, says, "It recommended more training; that does not necessarily mean there was none there at all." The internal review was pretty tough on a lot of those areas, and it does not take a lot of savvy to recognize that it is saying these things just have not been done.

Yes, there are senior and junior examiners. I could not find a quote right here, but it made it quite clear that people who were too junior were being sent out to do the job that more senior people should have been doing.

The minister failed to comment at all on the point I was making which is that during the 1970s, when the Business Corporations Act was being revised and upgraded, extra responsibilities were being imposed or required as far as directors of business corporations were concerned. The Ontario Securities Commission was certainly moving towards more disclosure and was expecting and exacting higher standards in the companies it was responsible for. There was no comparable move with respect to the administration or the regulation of trust and loan companies.

This is where the failure of management in your ministry comes, minister. When it finally

came, the action led to such things as the white paper. A number of issues will be looked at now; however, it is very much a matter of locking the stable door after the horse has fled.

As I pointed out, somewhere someone should be accountable and responsible for the fact that \$300 million in public funds through the Canada Deposit Insurance Corp. has had to be paid out in order to compensate for the moneys lost through the management of the companies and through the failure of regulation by this ministry.

The minister keeps returning to the Porter royal commission and to the royal commission on Atlantic Acceptance. I want to assure the minister I have read the reports. I can also tell him it is some time since I read them.

The comments made by the commissions were correct; I do not quarrel with their philosophy when they say you cannot have a regulator which is going to look to every transaction and to every deal; otherwise you simply have second-guessing. Not only is it hopelessly inefficient, you take away any sense of responsibility from the private corporation or the trust company.

However, that is not the point in this case. It is pointed out there was no scheme to judge the weak and the strong trust companies and then to focus on the affairs of the weak ones. I have not heard it said the regulators were denied access to the nature of the Re-Mor transactions at the Pelham school, and some of the others I mentioned were cited.

I would assume that where the regulators had questions, they had power to look into those transactions as the Morrison commission was able to do. If they did not, then they were inadequately armed to do their job. If they did and failed to recognize the gravity of deals where money was being lent at rates which were significantly below those at which companies had to borrow, it seems to me there was a failure in terms of the regulatory process. The ministry, knowing those kinds of things, should have been able both to flag it and to act.

The deleterious action of management has been mentioned. It was obviously a factor. There had to be a point at which you said enough was enough. It is significant to me that throughout his statement today, the minister made absolutely no reference to the question of disclosure of ministry actions.

It is quite clear that had you had to take the route—and it does appear to be complicated—of seeking to take away the protection of the CDIC, the biggest effect would have been the public statement that was made to that effect.

Probably you could have had a bigger impact on the companies had you told them you intended to seek that action and you were going to put out a press release to that effect, making it public unless the companies were prepared to knuckle under.

The companies were on month-to-month licensing. To my knowledge, there is nothing in the regulations to prevent that matter being made public in the same way the securities commission, which is responsible for regulation customarily makes a great number of its orders a matter of public record, knowing it will have an impact on the marketability of securities and on the share price in some cases. If the securities commission can use disclosure, then why were your people not able to do it even if there had not been a precedent?

10 a.m.

It is significant that, just as in the white paper, there is no reference to disclosure as a tool or a weapon for the ministry to use. I recognize that would have had an effect in terms of the companies' business.

Hon. Mr. Elgie: It sure would have.

Mr. Cassidy: However, when you look at the alternative, which is that the public had to cough up \$300 million because of the failure to do that, I suggest that perhaps the financial losses were unfairly put on the public. All of those deposits were insured. Therefore, it seems to me the major impact would have been to have stopped those companies in their tracks.

The minister commented on the increase in capital, but he failed to comment on the fact that the increases in capital were phoney; that was apparently not recognized. Nor did he comment on the fact that it was the cabinet itself which agreed to those increases in capital, a total of three times, in the cases of Greymac and Seaway Trusts.

We will go back to these questions tomorrow. However, as I say, the testiness of the minister's reply, I think, indicates that perhaps some of the comments strike home.

Hon. Mr. Elgie: Mr. Chairman, I just want to say that I think my comments tended to match the tone of the critics. I make no apology for that.

I am interested that you mentioned the limited resources the opposition has, with respect to research on its own, but you failed to take note that we probably have more resources available to the opposition in this province than in any other province in the country. This does

not mean there are enough resources; but it fails to take that into account.

I was not criticizing you for using government documents. I am simply saying that the fact they were available to you is an example of the way in which we have endeavoured to make public whatever information could be made public. Therefore, it was available to you, and to others, to review in detail and thus come up with the position you chose to take.

I am not criticizing you for using it; I am simply saying it was made public and available.

You also stated, "During the 1970s, while the Business Corporations Act was being revised . . ." Well, you know that the royal commission on Atlantic Acceptance merely reported in 1969 and did not recommend any change in the regulatory process. I may stand corrected on this, but it is also my recollection that the 1975 company law report on the loan and trust industry did not make any comments on the need for any change in the regulatory environment either.

In fact, although people like to talk blithely about a number of failures in the area of the loan and trust industry, I suspect you would have to look a long way to find anything other than the British Mortgage and Trust case and the recent three trust company failures in provincially chartered trust companies.

I think the previous minister, as you know, did issue a draft bill, but again—

Mr. Cassidy: You look at Re-Mor. That is a—

Hon. Mr. Elgie: You look on Re-Mor as a trust company. That is an interesting approach to it.

Mr. Cassidy: I look on it as a related area, though.

Hon. Mr. Elgie: If you want to go into Re-Mor, then we will spend half an hour on that, because it is still our contention that the Re-Mor investors were hoodwinked by the existence of Astra Trust, which we had refused to license. If you want to go into that in detail, I will be glad to do it.

Mr. Breithaupt: The minister is interrupting himself.

Hon. Mr. Elgie: Yes, that is right.

Mr. Gillies: Ignore the interjections, please.

Mr. Chairman: Yes, carry on, minister.

Hon. Mr. Elgie: You indicated that I had not said that regulators were denied access to information. That may be true, but it is also true that you have not reported on a whole chapter

of the Morrison report which was devoted to companies and their employees keeping onside of the regulators, so that whenever regulators went to look at records there were either some things which had been corrected, or the whole process had been geared to keeping onside of regulators.

The Morrison report indicated extensively how Crown Trust kept onside with respect to its liquidity when our friend Mr. Branco Weiss deposited \$15 million on December 30—I may be out a day or two—so they would have the necessary liquidity and then withdrew it on January 5. Therefore, I have to say you failed to take that into account.

With respect to whether or not there has been a disclosure of ministry action, I have to tell you, and you were frank enough to admit it, that to announce publicly that one was taking away deposit coverage would not only have had a disastrous effect, it would have had an immediate effect. There would have been massive runs on those companies, companies which may well have been working themselves through a compliance process.

It is quite different from the Ontario Securities Commission making an announcement about some problem with which they are concerned and issuing a cease-trading order on the stock.

We are not talking about a company that they have concerns about. They issue an order and have a cease-trading order. That would not have anything to do with depositors. They could still have a run on the company and again it could be down, even though there were honest efforts being made to bring it into compliance. That is the difficult role regulators have. It is not as simple as it may appear to you.

You said I failed to comment on the increases in capital and the fact they were phoney. I guess everything seems easy when you look backwards. The registrar consistently refused to increase the borrowing multiple, but on the other hand he did recognize, from his previous experience, that if there was a need for further capital in that company it would likely increase the commitment of those shareholders and owners to that company.

Whether or not the act gave him enough control over the nature of the capital that had to be infused is another problem. He could not predict ahead of time that the capital infused would not be appropriate for the purposes he felt should be there. I think I am correct in saying that. The registrar indicates that was his view.

Mr. Chairman, without reiterating and rereading the whole statement, because we could go on all day back and forth on this issue, I think I will leave my remarks at that.

Mr. Chairman: Thank you, minister. Are there any further questions on the main office?

Mr. Cassidy: I would like to raise a separate issue now, Mr. Chairman. I think it is appropriate here because of the specific pledge the minister made when we were debating the Ontario Share and Deposit Insurance Corp. and credit unions legislation back in June. I would like to pursue this matter now.

The minister made the commitment to protect the jobs of the OSDIC employees. The minister said in the House—and I did quote this before—that, “The phasing out of OSDIC will not happen with any degree of rapidity and it will not take place without every available facility in terms of the Civil Service Commission and other options being fully explored.” The minister then put his own good faith on the line by supporting that.

Now, minister, I had a letter from you which was in my in-basket when I spoke last week, but I had not reached it. This letter was written on November 22, 1983. Perhaps I could read it into the record and then comment on it. It is just a short letter:

“Dear Michael”—thank you, Bob.

Hon. Mr. Elgie: “Dear Mike.”

Mr. Cassidy: It is okay. I am ambivalent about those. “Dear Robert.”

Hon. Mr. Elgie: “Dear Doc.”

Mr. Cassidy: I hope after these estimates we can get together and have a bite to eat or something, minister, because it is—

Interjection: All phoney.

Mr. Cassidy: Anyway, the letter reads:

“Thank you for your calls on the OSDIC staffing situation and your subsequent letter of November 1, 1983.

“I note that the ad hoc committee of OSDIC staff in a letter to the chairman of OSDIC dated August 30, 1983, confirmed all the commitments made by the chairman at a meeting on July 22, 1983. I understand that a copy of the letter was made available to you by the staff group which met with you during the week of September 19, 1983. That letter noted the satisfaction with the procedures outlined by the OSDIC chairman.

“For your information, a staff meeting was held on September 30, 1983, to provide an

update in terms of the OSDIC chairman's commitment of July 22. In addition, a further meeting was held on October 7 immediately following the board meeting of October 6. The most recent meeting was held with the staff committee on November 14. The next full staff meeting was held on November 21, 1983.

"Arrangements will be in place in terms of my commitment to the House on June 21, 1983, and confirmed to the OSDIC staff on my behalf on July 22, 1983, to permit surplus OSDIC employees to apply for positions currently restricted to existing civil servants as soon as the OSDIC board has identified the individuals who will be surplus.

10:10 a.m.

"The OSDIC chairman is very aware of the need to provide as much notice as possible to surplus employees and to make appropriate severance pay arrangements. These matters, along with those related to civil service openings, could not be finalized until it was known whether the proposals of Credit Union Central of Ontario for a stabilization fund were approved by the membership. The central's proposals were accepted at a special general meeting held on November 5, 1983.

"For your information, I understand that a firm of placement counsellors has been employed by OSDIC and all employees will have an opportunity of being interviewed by the consultants.

"Thank you for writing me . . ." etc. and it is signed by the minister.

I have also had a chance to run through the minister's comments in this committee last week when I had to be upstairs to participate in the debate on the rape victim case. It appears quite clear that the employees of OSDIC have been misled for a very long time, either misled or else the minister is—I do not know what to say right now about the situation.

Let me just read the letter which—if I can find the letter here—was written by the employees to Mr. Stothers at the end of August. In their letter to Mr. Stothers of August 30, the staff—and it is not just an ad hoc committee, it is a duly elected committee representing the staff—says in point 2:

"On the basis of your comments at the meeting of July 22, 1983, we understand the following points," and the second point is this:

"Immediately after September 30, those individuals whose positions have been identified as surplus or whose job descriptions have materially changed in the context of the corporation's

redefined role will be granted 'priority hiring' and 'status' with the public service commission of Ontario. This would give these employees access to positions within the Ontario civil service which are currently restricted to existing civil servants."

The "priority hiring" has gone on and on, and now it appears that all it seems to entail, according to your response in this committee, minister, is that those employees will be able to apply for jobs which are restricted and nothing more.

If these employees had been in a government department which was being phased out, then they would have what they understood to be priority hiring.

Hon. Mr. Elgie: According to their collective agreement they were given—

Mr. Cassidy: I am not sure what the situation is for management employees. I know of no reason why that does not apply to management employees as well who are being considered.

Hon. Mr. Elgie: I think it does apply to management employees.

Mr. Cassidy: Okay. Now by "management" I mean that—

Hon. Mr. Elgie: They are outside the bargaining unit.

Mr. Cassidy: —they are outside the bargaining unit, which would break down to secretaries and so on, since all of the OSDIC employees do not have the benefit of a union.

However, the understanding was that there would be priority hiring. That understanding has gone on and on, and now, at the very end, Mr. Stothers is saying to the employees: "I did not understand. It does not mean that if there is a job for which you are qualified within the public service you would be able to get it. It simply means that you are able to compete for jobs in the civil service along with anybody else who wants to transfer into that position from another job."

Effectively, that puts them in an inferior position, because I suspect that if a position within the public service is being advertised and there are two candidates whose qualifications are comparable but one is a candidate, let us say from within that ministry or a closely related ministry, and the other is a candidate from OSDIC, the chances are the job is going to go to the person within the public service. So instead of having priority they will have their foot narrowly within the door and nothing more. It seems to me that is the situation now.

That is a clear change from what was being promised all along by Mr. Stothers. He spoke of priority hiring along the lines that you understand it, minister, whether or not there happens to be a bargaining unit.

I do not know if the minister wants to respond to that or if he wants me to go through the other points I have to make with respect to his comments of the other day. Perhaps I should finish this, and then we could have the minister's comments.

I think the minister knows that one of the reasons I raised this matter was that we live in unstable and difficult times. There has been a lot of displacement of workers in the private sector, and now it is spreading into the public sector as well.

If Ontario as a government is to seek the best treatment, or adequate treatment, of displaced employees in the private sector, it seems to me it has to be able to show some example in how the government operates its when workers are displaced, in this case through no fault of their own.

It is not a matter of a particular function of government having to be shown to be ineffective, inefficient or whatever; it is simply a change in policy, which is to move some responsibilities from a government agency back to the credit union federations. If the government cannot handle this one well, then how the devil do you go out to private industry and ask them to deal more sensitively and more responsibly with problems of displacement related to technological change or to changing competitive situations?

Why is that important? It is important because the very bottom line is this: if workers in the private sector feel there is no justice in the way they are being dealt with, that their interests are not being looked at, then in time the frustration, the alienation and the potential for Luddism will all be there. So in a small way what happens to these Ontario Share and Deposit Insurance Corp. employees relates to how we as a society, as a province, manage to solve very difficult problems of industrial change in the coming years.

Minister, you said on December 1, "Meetings are at present being held weekly to advise staff of the latest situation." This is not correct, and your own letter confirms that.

In the first place, it gives the dates of the various meetings. I think a total of four general staff meetings and two meetings with the employee committee have been held since June, when the

displacement was announced, until the present. Every one of these meetings, however, was initiated by the employees in their efforts to find out what the devil was going on and what was going to happen to them.

The only meeting initiated by the chairman was on October 25, 1983, and he did not show up for that meeting. This meeting was presided over by Keith Mills, was extremely short and provided no new information.

I have not attended any of the meetings, but I am informed by employees that in general they have tended to be brusque and short. Mr. Stothers has appeared to be in a great hurry. He has tried to dismiss the employees' concerns as being trivial, or not of any particular importance, or to suggest that basically the only priorities that count are the management priorities within OSDIC, and that once those things are sorted out, then employee concerns can be responded to.

I think the employees have acted responsibly here. They have a legitimate right to have information. It is good management practice, as the minister should know since he lectured me on the subject, to let people know what is going to happen to them.

Not only has that not been done, I believe that not until this day do the employees know specifically who is going to go and who is going to stay, nor do they have anything more than the staffing plan that was released to them only a week or two ago.

While individuals might not have been designated back in June or July, it should have been possible at that time to have given them a much more specific idea of what management expected would happen in the event the necessary vote was taken by the Credit Union Central at its meeting in November.

The people who work there are not children, although they have been treated like children. They certainly would have understood if some of the information that was given to them was tentative or conditional on other things happening, particularly when it was quite clear the credit unions, for example, were anxious to take the decision they finally took formally on November 5.

10:20 a.m.

The committee was told a couple of times, most recently on November 7, that no terminations would take place prior to June 30, 1984; however, informal notice would be given to employees in December, 1983. If any employee was unplaced as of June 30, at that time the

appropriate formal notice or pay in lieu of notice would be given.

The committee has now been told that employees will be given six months' formal notice late this week or early next week. That is a very clear change. Initially, it appeared the intention was to help to replace those employees over the six months, the first half of 1984, and then to issue formal terminations only to those who had not been successfully placed at the end of June. There would be severance pay arrangements at that time.

No severance pay arrangements, to my knowledge, have yet been made public. If you were in that situation and had to plan what to do with the next 30 or 40 years of your life, or at least the next stage in your career or perhaps concern yourself with job survival, it is pretty important to know whether you are getting a month or six months of severance pay, or whether you should be talking to your lawyer about unjust dismissal, or whether the arrangements being made for severance are reasonable in the circumstances.

Throughout the entire process, the chairman has assured the employees that "no one will be hurt," that is left without a job; but there has been no concrete action to put that into effect.

The committee was told that employees would receive services from a relocation consulting firm and a placement firm. It appears the employees are questioning that. They are still not sure what provision is being made to help employees locate potential jobs.

Also, they do not know what the severance pay arrangements are. What does an employee do, for example, if he is offered a job in the private sector on the grounds, "Come and work for us for six months, and if it works out we will take you on on a permanent basis"? If that is the choice, the severance pay arrangements are germane.

If an employee knows he is guaranteed six months' severance pay if he leaves and takes the job which he thinks will probably work out, then he will take the risk. If he knows, on the other hand, that he jeopardizes all his severance pay by taking a job which may only last a few months, then my advice to an employee in that situation would be that the risks are too high. "You had better stick around, take the cash and then look for a job when you get the cash."

The minister's letter of November 22, the one I quoted, indicates that placement counsellors have been employed. The chairman's letter of July 21, 1983, states that, "placement counsellors would be employed as a last resort after all

other avenues have been exhausted." However, other than relocation counsellors, no other concrete assistance has been offered.

The next question: given the minister's comments of December 1 and particularly those made in June, I am interested in what kind of leadership he has shown in implementing his pledge. I thought about this in terms of what is a creative and imaginative thing to have done in putting that into place. What would you do?

For example, has the minister called a meeting with the Credit Union Central of Ontario and other credit union federations, perhaps some of the major credit unions themselves, in order to make it clear the minister is doing everything in his power to help provide positions for the displaced employees from the Ontario Share and Deposit Insurance Corp. as they were taking over a number of functions from OSDIC?

Has the minister explored the possibility for placement with other crown agencies? What actions, if any, have been taken by his ministry as opposed to whatever has been done by Mr. Mills and Mr. Stothers and the management of OSDIC?

The next point: the corporation intends to terminate 20 employees on June 30 and another 10 at the end of December. The employees' committee has been told repeatedly that all 30 employees identified as surplus would be advised simultaneously. It is now indicated that only the first 20 will be notified and the remainder will be advised some time soon, whatever that means.

As I pointed out, OSDIC employees have now been waiting for some five and a half months from the time of the legislation in the latter part of June. That is a long time to keep people hanging on a string, particularly in the insecure and difficult economic times we have now.

I return to the point I made earlier, which is that if you cannot handle this job within government adequately, then the government's credibility in telling industry to deal better with displaced employees is diminished.

I hope these points can be answered by the minister and will have been fully explored by the time he meets with the employees on December 19.

I will just return to the final point, which is that both the chairman and management have continuously and repeatedly held out priority hiring to employees as outlined in the regulations of the Public Service Act. You indicated the collective agreement between the Ontario

Public Service Employees Union and the Management Board of Cabinet might be a barrier to priority hiring status in certain cases.

Once again, has that been explored? If the ministry thinks that is a problem, have you sat down to discuss the matter with OPSEU to see whether it would hold rigidly to the contract or whether it would be prepared to be flexible in that regard if some flexibility is required?

In addition, while it may be unclear for bargaining unit positions, certainly priority hiring status could be granted, and granted now, for nonbargaining unit positions since those positions would not fall under the collective agreement.

The final point is, when the devil is all this going to begin? It seems that OSDIC wants to keep all its employees in place until June 30 and intends to make it as difficult as possible for those employees to take up opportunities as those opportunities arise.

Given the difficulties of hiring and the fact that it takes a lot of time to change jobs these days—several months in the experience of many people at the level of OSDIC employees—it seems to me the five months wasted now has been an error. It has been a bad mistake. It would be an even worse mistake to waste another six months rather than make arrangements by which those employees can move into other jobs as positions are found over the course of the time from today until June 30.

I would like the minister's comments on those points.

Hon. Mr. Elgie: Mr. Chairman, at the expense of reiterating some of the remarks I made last week when the member was not here, I may say that I do not think anyone looks upon the problems faced by employees who are or may be displaced as trivial matters. I can assure him and the employees that the chairman, Mr. Stothers, certainly does not treat those matters as trivial. Indeed, he spends a lot of his time and effort on this very matter.

We have to be clear about what was being said about priority hiring. It is simply a fact of life that there are two types of hiring for employees who are in the civil service. If they are designated surplus, then they have specific rights with respect to jobs that come open. On the other hand, any employee has a right to apply for restricted positions.

10:30 a.m.

To my knowledge and to the knowledge of my staff, no agencies of government have any

access, even to the restricted positions. It was not until two weeks ago that the Civil Service Commission confirmed it would be possible for employees of this agency to be given priority over other outside agencies in that they would be allowed to apply for restricted positions.

If that has misled some employees, if those of us who have spoken to them have given them any reason to get some other meaning from it, we can only apologize. Certainly, it would have been inaccurate to say that they could be considered surplus employees.

Mr. Cassidy: Are they not surplus?

Hon. Mr. Elgie: Be considered surplus employees in the same way as civil servants are considered surplus employees in their collective agreement.

From my own experience with some of these things, I know it is always difficult for people, it is a difficult time in their lives to be looking forward with any degree of uncertainty. One can only evaluate the effectiveness of what a government or an agency does once the process has been completed.

I acknowledge there certainly will be uncertainties in the employees' minds. Those are very troublesome uncertainties. We have to make every effort to try to assure them we are making every effort possible.

I like to think the example in our own ministry with respect to any employees who became displaced as a result of changes within the work place is a good one. I cannot recall anyone—perhaps the deputy can—whom we have not been successful in placing. Can you think of any?

Mr. Crosbie: We had a reduction of about 40 people in the registrar general's office and I think there was only one person who was not placed somewhere else. I think there was another solution there.

Hon. Mr. Elgie: I think we have set a good example. The move to Whitby, and the move of part of the Ontario health insurance plan, are other examples that we think the private sector should appropriately look to for the way we feel staff should be treated and respected.

There were some other comments the member made about the frequency of staff meetings. I did not say there had been weekly staff meetings since the beginning. I said at the present time the chairman advises me staff meetings are to be held weekly in order to keep them advised.

I would point out some other things. You

must acknowledge that no specific planning could take place until after Central made its decision about the stabilization fund. I hope you acknowledge, too, that it was the wish of the employees that all employees, not just those who might be designated by the Ontario Share and Deposit Insurance Corp., be interviewed. Those interviews commenced on Monday of this week.

I also made it clear in my remarks on Friday that additional counselling for employees requiring it will be provided.

You indicated the six months' termination notice that has been mentioned was a clear change in direction. I would have thought that indicating a termination notice of that duration should have been some evidence to employees there would be the serious kind of effort I am sure the board of OSDIC and the staff contemplate will be taking place during that lengthy period of time.

It may well be true that employees have not been informed about their rights with respect to severance pay. I think that is something they should know. I agree with you on that. I will certainly pursue that.

What kind of leadership am I showing? I like to think it is leadership that respects the rights, the responsibilities and the importance of employees. I have met on numerous occasions with Mr. Stothers, emphasizing my concern that employees be given appropriate opportunities wherever possible and that all steps be taken. I have never had any disagreement with him on this issue. He shares that view.

Have I gone beyond those efforts? It is my understanding OSDIC has spoken to other credit union groups. In addition, I personally have written to Central asking for their co-operation in endeavouring to hire any surplus employees who may be designated, once they are designated. I have also written to other crown agencies such as the Liquor Licence Board of Ontario and the Liquor Control Board of Ontario. I also wrote to the Workers' Compensation Board. Members of our staff have spoken to those groups.

Again, every opportunity to apply for jobs that come open will be provided. The exact details will have to await final delineation.

I do not think there is any lack of will nor any lack of appreciation or empathy with respect to the plight of anyone who is being displaced, particularly employees who fall within the confines of the ministry in which I am involved. I do not feel I should have any remorse about the

concern I have and the actions I am taking. If someone can present other legitimate steps that should be taken that I am overlooking, then I would be pleased to take them.

As you have said, the behaviour demonstrated by this minister in other areas of displacement would be in keeping with that kind of responsible effort on my part. Again, I can only say I have never been in a situation of prospective layoffs where you can avoid uncertainty. I think one always has to be honest and admit that only at the end of the day can you look back and say whether you did everything that was possible and whether it was reasonable.

In the meantime, we have to continue to do whatever seems possible to us, and to listen openly and honestly to other suggestions that are feasible.

Mr. Cassidy: As I pointed out before, the meetings that are taking place even now have been initiated by the employees. Mr. Stothers has appeared as a sort of involuntary participant.

Hon. Mr. Elgie: He is not.

Mr. Cassidy: The fact is that they have had to ask—

Hon. Mr. Elgie: We can debate that until the day ends.

Gordon, maybe you can tell Mr. Stothers that on December 19; tell him he is a distant—

Mr. Cassidy: The point I am trying to make to you, minister—

Hon. Mr. Elgie: It would be inaccurate to say he is—

Mr. Cassidy: The point I am trying to make to you is that there have been real problems in communication there. Since it appears the chairman is a good deal more influential in the direction of the agency than the general manager, that buck stops with the chairman.

In the statement last week you said, "I want the employees to know that every extraordinary effort will be made to make sure that everything that can be done is done." You spoke there about the destructiveness of not knowing what is going to happen down the road.

It may be that some of those uncertainties can be resolved now that the matter has been raised and after the meeting with you on December 19. On the other hand, you are resolving one uncertainty by breaking the promise which was made back in June with respect to employment for these—

Hon. Mr. Elgie: I resent that and it is inaccurate. If you read what I said in June, I said every

possibility would be explored with the Civil Service Commission.

I would ask you to withdraw the comment that I misled them. I did not. Will you or will you not? Just say yes or no. Will you withdraw it?

Mr. Cassidy: No, I will not.

Hon. Mr. Elgie: Fine.

Mr. Cassidy: You broke the promise.

Mr. Gillies: Name him, out, out.

Mr. Cassidy: You broke the promise, minister.

Hon. Mr. Elgie: I know how to consider you. I know exactly what to think of you then. You are misreading what is there, plain for the eyes to see.

Mr. Cassidy: In that case, when you said, "I think the member knows me well enough"—this was responding to the member for Welland-Thorold (Mr. Swart)—"that this kind of issue is one that would be paramount in my own mind as well." You were putting your own credibility, which is considerable, on the line.

Hon. Mr. Elgie: That is right. I still am.

Mr. Cassidy: Okay, and now you are withdrawing it. That really upsets me.

Maybe I can ask the question in a different way.

Mr. Elston: Probably.

Hon. Mr. Elgie: Maybe you will want to try it a different way. Take your foot out of your mouth and put the other one in.

Mr. Cassidy: "Throughout the entire process, the chairman has assured us"—that is the employees, who have given me some notes—"that 'No one would be hurt'; that is, left without a job."

Can you say what is the position there? Can you undertake that jobs will be found for all of these surplus employees at the Ontario Share and Deposit Insurance Corp. who are being laid off in the 12 months?

Hon. Mr. Elgie: I can say only what I have said to date; namely, that we will continue to make all efforts humanly possible to see that employees are placed. You know that request is one that no one could answer and be responsible. That does not trouble me because I would expect you to make that kind of request.

Mr. Cassidy: All right, since you say you will make all effort that is humanly possible: as you pointed out, if designated surplus a civil servant who comes from within a ministry benefits from the priority hiring. That means that if they qualify for a job they get it, even if there are other people who are also qualified and maybe

even better qualified for the job but who are not designated surplus.

In line with what you say about all efforts being made, it seems to me that these OSDIC employees should be able to be considered surplus in that sense when being considered for jobs within the civil service of Ontario. Will you make that undertaking?

10:40 a.m.

Hon. Mr. Elgie: Staff have already had those consultations with the Civil Service Commission. Do you have any comment, deputy?

Mr. Crosbie: No, I cannot really add further to what has been said.

Hon. Mr. Elgie: The fact of life is that they are not surplus employees under the terms of the collective agreement within the civil service. That is a fact of life, whether you and I like it or not.

Mr. Cassidy: Are you prepared to have them designated surplus when they are being considered for non-bargaining-unit positions within the public service?

Hon. Mr. Elgie: I do not know if that has been discussed with the Civil Service Commission.

Mr. Cassidy: Has it been?

Mrs. Service: I am not aware that it has.

Mr. Cassidy: That is one effort that has yet to be made. Will you undertake that there will be an order in council to do that, at the very least for non-bargaining-unit positions?

Hon. Mr. Elgie: No; but I will undertake to have those discussions with the civil service commission. I thought they had taken place.

Mr. Cassidy: Will you undertake to have discussions with the Ontario Public Service Employees Union regarding allowing these employees priority hiring with respect to bargaining-unit positions?

Hon. Mr. Elgie: That is already under way. You would expect that, would you not?

Mr. Cassidy: No, I did not. Tell me more. What is happening?

Hon. Mr. Elgie: The deputy can comment on that.

Mr. Crosbie: Our personnel branch is approaching OPSEU to find out what their position is.

Mr. Cassidy: I see. Just the personnel branch, though?

Mr. Crosbie: That is who does our negotiations in this area, that is who does the work for us. Our labour relations person in the personnel

branch normally contacts OPSEU when we have management-union negotiations.

Mr. Cassidy: My reaction would be that a routine request will get a routine reply which is: "The contract does not allow it. We are not prepared to consider it."

This is an extraordinary situation and it seems to me it would be appropriate to go in at a much higher level and, in fact, to talk to—

Hon. Mr. Elgie: We will see if that is necessary. We will see what the response is by going the routes that one would ordinarily go.

Mr. Cassidy: Can we get any answer on this before the end of these estimates?

Hon. Mr. Elgie: No, I cannot give you any time frames on it.

Mr. Cassidy: Could we have a report near the end of the estimates?

Mr. Crosbie: That is one of the questions I asked the personnel branch—if they could get an update on the information. They may. We have asked the person who is making the contacts to get back to us, but I cannot tell you whether or not we will have the information today.

Mr. Cassidy: I am hearing the minister say that everything possible will be done. It seems to me that not only that should be done but also, even if there is a bill that needs to be changed maybe we can change a bill if we have to.

The question of designating those employees as surplus when they are being considered for non-bargaining-unit positions within the public service would, in fact, be in line with the commitment you are making.

Hon. Mr. Elgie: I have no further comments. I answered that already.

Mr. Cassidy: You say you will pursue the question of severance pay. May we have some time frame on that?

Hon. Mr. Elgie: No, I am not going to get into time frames. I said you had made a good point. It is my understanding employees have not been advised with regard to severance pay and I will look into that.

Mr. Cassidy: Okay, could you undertake—

Hon. Mr. Elgie: I will not give you any time frame undertaking, no.

Mr. Cassidy: That is all on that subject.

Mr. Chairman: Are there any further questions by any further members on item 1?

Item 1 agreed to.

Items 2 through 4, inclusive, agreed to.

On item 5, information services:

Mr. Chairman: Are there any questions by any of the members on information services? Shall item 5 carry?

Mr. Cassidy: Perhaps it could be explained what the government information program is in this particular case.

Mr. Mitchell: Mr. Chairman, just while someone is preparing to answer that, I think it becomes very obvious what that does when one sees the sort of programs that were run on television, very effectively in my opinion, drawing people's attention to such things as purchasing a car and so on, making them aware of all their rights and responsibilities.

I think one only needs to see that to know quite clearly where the concerns are and how the communications program works.

Hon. Mr. Elgie: Mr. Wayne MacDonald is director of the communications branch and perhaps he would be good enough to outline the scope and the type of information program he operates.

Mr. MacDonald: It is actually broken down into two segments, which are news and information services, and the consumer information centre, which is an education component.

News and information services basically deals with news releases on consumer issues, consumer warnings and television programs; we do not get into too many of the latter. We also distribute about 600,000 brochures a year on consumer issues, basic information brochures.

The education outreach program, which is in the consumer information centre, also is broken down into an education component plus an inquiry service, in which we have five inquiry officers who answer approximately 120,000 inquiries per year from consumers across the province.

Did you want me to get into specific details?

Mr. Cassidy: No, I do not think so. I was going to ask another question which was just the sum total of spending by the ministry on advertising as a whole.

Mr. MacDonald: There is no budget whatsoever for advertising as a whole. We do get a little over \$150,000 from Industry and Trade through the Ontario 20 program, to which all ministries have access. For the last two years we have used the money that has been allotted to us for public safety messages in all 300 ethnic and weekly newspapers across Ontario.

Mr. Cassidy: I see.

Mr. MacDonald: Other than that, there is no separate budget. If you are looking at the image

advertising kind of thing, we have not done any image advertising.

Mr. Cassidy: You are buying \$180,000 worth of services under the government information program. What is that?

Mr. MacDonald: That is the Ontario 20 program. Those are the advertising dollars provided to us as our allotment from Industry and Trade.

Mr. Cassidy: That is very unclear. It is in your budget, not theirs.

Mr. MacDonald: It is a transfer payment to us. It is assigned to us. It is not our ministry money. It is Industry and Trade.

Hon. Mr. Elgie: Could you give us an example of the use of such—

Mr. MacDonald: The use of the advertising?

Hon. Mr. Elgie: Yes.

Mr. MacDonald: In the last two years there has been the purchase of one ad in about 300 weekly newspapers to alert home owners to the dangers of not having chimney liners if they have converted from oil to gas.

Hon. Mr. Elgie: And over-sealing homes.

Mr. MacDonald: —and over-sealing homes. Those were the two safety areas and that ate up the whole budget.

Hon. Mr. Elgie: The diving thing. I know it was not last year, it was this year, but would that be an example of it too—the dangers of diving?

Mr. MacDonald: The diving commercials were a separate project in which we spent about \$6,000 to alert people, particularly young males, to the dangers of diving into water of any kind without thinking about the depth of the water.

Mr. Breithaupt: How then would you have spent \$6,000 in trying to get that particular message across to more than a very few people?

Mr. MacDonald: Actually, we consider that to be one of our successes. I do not have all the figures in yet, and I am not sure we will be able to get them clearly, but I believe in the end we were able to get around \$200,000-worth of free advertising through 26 Ontario television stations, plus news programs.

Mr. Breithaupt: So this in effect was just the cost of producing the item.

Mr. MacDonald: We had someone on staff who was competent to be the producer of the television commercial, which I believe was a

very excellent one for \$6,000. Most cost \$30,000 to \$50,000.

Hon. Mr. Elgie: You prepared four of them.

Mr. Chairman: Mr. Gillies is ready.

10:50 a.m.

Hon. Mr. Elgie: Could I just add that we had four commercials done and then we had them reviewed by representatives of the handicapped community to see if any of them were found to be troublesome to them. We finally selected one they felt was quite appropriate for the message.

It was simply the sending out of that commercial and the pickup by stations and the interest that was generated through reporters and others that brought tremendous effectiveness for the program.

Mr. Crosbie: Just as a further elaboration, part of the service we provided was to assist the local media in contacting local people, paraplegics who might have been able to relate to the problem area.

Most major television operations like the Canadian Broadcasting Corp., CTV, and I guess the London station, all went to the trouble of producing extended coverage. One of them, I believe, had 20 minutes on the topic. Others had five or six minutes where they used local people. Some of them used part of our clip and some of them went out and did the whole thing on their own. But they picked up the theme.

The newspapers picked it up too. You may recall in the summer all three of the major papers in Toronto, I believe, picked up the theme of the diving accident and ran major stories on it. The response was really fantastic.

Mr. MacDonald says he probably got \$200,000-worth of results. He may be underestimating it, because I believe 20 out of 26 television stations picked it up and used it.

Mr. MacDonald: What we did was send the commercials out and then we phoned all newsrooms and alerted them to the commercials. In this case it was quite a newsy kind of commercial. As a result, the news departments produced their own news shows at, I believe, 22 of those television stations. It was a snowball effect, which is what we intended.

Mr. Mancini: The person on staff who produced those commercials, what does he do when he is not producing them?

Mr. MacDonald: It was a contract person

who was employed for three months. He was filling a vacancy at that time.

Mr. Mancini: Strictly to do those commercials?

Mr. MacDonald: Yes.

Mr. Gillies: I just wanted to ask a couple of questions about the consumer information centre over on Yonge Street. Can you give me an idea how many inquiries would have been received and dealt with by the centre? It is not broken down this way in the estimates book, but how much does that centre cost to run?

Mr. MacDonald: We are getting around 120,000 inquiries a year. I believe that is around 400 a day. There are five inquiry officers. The number has increased from about 70,000 in 1981. From March 1982, an Inwat service—ingoing wide area telephone service—was added so more people in Ontario could phone without incurring a telephone charge. As a result, the number of calls has gone up by almost 50,000 a year and we have added one person to the staff in that time.

I do not know the specific details of the charges for Inwats, what it costs us to have that, but I can get that information for you. There seems to be a growing increase in use of the service. I mean 50,000 in one year is quite a substantial increase.

Mr. Gillies: I think it is good, and certainly it has been of some assistance on a number of inquiries from my constituency office. I guess what I am getting at is whether it would be possible or practical to have branch offices in several other major cities in the province or whether of necessity—not necessarily branches; I am actually thinking perhaps of Hamilton, Windsor, Ottawa, and Sudbury perhaps.

Mr. Mancini: Brantford would be your best spot.

Hon. Mr. Elgie: I think Stormont, Dundas and Glengarry would be a good place.

Mr. Gillies: Would that be practical or does the operation of the centre really require a centralized facility? I just do not know.

What I am wondering is how many of our consumers across the province are actually aware they can call the centre in Toronto free. We have inquiries in my office in Brantford on which we have always given information but—

Mr. MacDonald: I think the first step we should be taking is to let more people across the province know the service is available toll free. That is beginning to happen now, because only

the most recent telephone books have the number in the blue pages in all regions across Ontario. I think that is one of the reasons there is an increase in the number of calls we are getting.

As for decentralizing, it seems to me the Ottawa access program in which other ministries—rather than have one ministry decentralize its information centre it might be worth looking into having all ministries look at whether they should decentralize together and share facilities rather than have us do a separate project.

At the moment I do not think we can handle many more calls. That is why we are not really going out there beating the bushes for people to phone because we can only answer so many phone calls a day with so many people before they start getting busy signals, and I do not think people want that.

Mr. Gillies: I can appreciate that. I would appreciate it, when you provide the data on the cost of Inwats, if you could also get us a breakdown of how many of those phone calls are coming in on Inwats and how many are coming in on regular lines. That will not give us a completely accurate picture of how many of the calls are from within Metro and how many are from outside, because some people will just call long distance, but it will give us an idea.

Mr. MacDonald: From outside of Metro, sure.

Mr. Gillies: That would give us an idea, minister. If the branch is going to be pursuing advertising and so on we can make sure this service is known to all the people in the province. That could give us some valuable guidance.

Mr. Breithaupt: Do you break down the calls you receive on a topical basis? The area that concerns me is that of claims against motor vehicles, the situation where an innocent purchaser answers an ad in the paper, buys the car and the bailiff or the bank comes around, or a bankruptcy situation occurs, and the properly registered claim allows that car's disposal. The person who has purchased the car is out \$2,000, \$3,000 or \$4,000.

Since more often than not it would be a lower-priced vehicle, which is personally owned and which is sold in a two-line ad in the newspaper, what sort of calls might you have in that particular area? It a problem about which I think, either through your operation or in conjunction with the motor vehicle issuing

offices and insurance agents, there should be a program, even if it is a series of signs put on the wall that would remind people to check before they transfer the vehicle and take the ownership. I am wondering whether you receive a number of calls in that area of people inquiring into that kind of purchase.

Mr. MacDonald: I can give you figures on the breakdown of the kinds of calls. The largest number of calls, at least for the past year, have been related to incorporation and partnership registrations, people who are interested in getting into business for themselves or with a partner. However, buying a car, car repairs and house repairs are all in the top five areas of interest. As an information service, we provide what information we can to people if they have queries about what they are doing with an automobile.

If they have a consumer complaint, this service is not capable of getting involved in mediation. We refer calls of that kind to the consumer advisory services branch. We really act as mediators or policemen in the marketplace. I would guess there are somewhere around 4,000 or 5,000 car repair calls a year. Partnerships or company incorporation would be up near 15,000 calls, quite a lot more. These are just calls of inquiry asking for information about a specific thing.

Mr. Breithaupt: That is one available source. Perhaps the suggestion of checking for the personal property registration claims against the car is the kind of information that would also be passed on. Is that right?

11 a.m.

Mr. MacDonald: If an individual calls and wants that kind of information, we refer him to the personal property registration area. We act in some cases as a consumer information centre that can satisfy the need for information. In other cases people have to be referred to a special area within the ministry or within the government itself.

We do not have that specific a breakdown on the questions. It is broken down to categories like buying a car, car repairs, buying a home or home repairs, for example, but not specific kinds of things.

Mr. Breithaupt: I appreciate the comments. While the item can be discussed either under the insurance side of things or under the personal property registration area, perhaps it is worth a moment now to talk about this theme.

It is very difficult to do anything but hide

behind the comment that everyone is supposed to know the law and these registrations for security should be checked by the purchaser.

I happen to have had a recent example. I suppose it is the traditional case where the car was purchased, \$3,500 was paid over, then it was found there was a claim for many thousands of dollars against this person, a part of which was attended to by a registration against his car by a financial institution. It was all quite properly done.

The purchaser called and said: "What can I do? I have lost my money, I have lost the car. The person from whom I bought it has since gone bankrupt and all I am offered is the opportunity to bid for that car at an auction—a car for which I have not only paid but also have spent repair funds upon."

I expect the end result was that the person just walked away and was out both the \$3,500 and the several hundred dollars of value he added to that vehicle.

You say he should have checked and that may be of some cold consolation. It seems to me if examples in this area are still prevalent, then there are several things which the ministry could do. Again at very little expense, one is to simply have a sign, note, brochure or poster available in the licence transfer offices saying: "Have you checked before you buy this car?"

As well, as an area of education and reinforcement, I think the insurance agents and brokers in Ontario could take on that same theme within their own particular offices. Since insurance is compulsory and we are dealing with some 94 or 96 per cent of people who are readily attending to their insurance requirements when they purchase a vehicle, that kind of opportunity could also be useful.

Of course, I do not think you are going to deal with every single one of these cases, but the example I have given you is of a person who apparently did not receive any information or have any opportunity to be informed about the prospect of someone having a claim against that vehicle when he went to transfer the ownership or when he went to place insurance on the car.

I would commend that kind of a theme to the ministry which perhaps the insurance agents and brokers might take on—the creation and distribution of a poster, or something which your ministry and the Ministry of Transportation and Communications might work out, to place in the licence transfer location.

I think if that were done a few examples of this kind of situation might be avoided. That

would be a good expenditure, probably of not too many dollars, to create a simple poster.

Mr. Chairman: Mr. Gillies, do you have any further questions?

Hon. Mr. Elgie: Could I just respond to that because he made some good points. In a large majority of cases, I would suspect, the deal is settled before they even go to get the insurance and the money transferred. Certainly, I support the kind of initiatives you propose. It might even be worth while looking at whether or not there could be a standard sales form with a warning on it. I do not know.

Mr. Crosbie: This is an area where we do have a lot of concern. It is one of the areas where we frequently put out some sort of news release, write an article, advise people of this, and we get a fair bit of pickup in the newspaper.

The other thing we do in the business practices division is watch the newspapers, because there are people who use private sales as a device. They are really operating as unregistered dealers. If we can spot any pattern, then our enforcement group will move in on them.

Where you are dealing with what might be a legitimate private sale, it is very difficult to stop that type of single transaction from happening. If the person who is selling happens to be on the verge of bankruptcy and the deal is closed before the purchaser consults anybody else, it is difficult to get the message across.

Some of the comments you have made have suggested things that we might pursue. Perhaps there is a method where, in the transportation offices of the Ministry of Transportation and Communications, there could be posters or maybe notices in connection with renewals of licences and that sort of thing.

Mr. Breithaupt: Under the renewal of licences, that is another opportunity. It seems to me that while a cheque or cash may have passed between two persons, the title transfer is going to have to be done through an obvious emanation of the government, which is the motor vehicle licence office.

That is the point of sale, one might say, where there should at least be the reminder to this purchaser who comes in with a signed ownership transferring it to the new person, the buyer. This is where the simple question should be asked, "Do you know if there are any claims against this vehicle?" A poster would do that in fairly clear terms. One might say the other point of sale is the insurance agent or the broker.

Mr. Crosbie: I might mention that when the Ministry of Transportation and Communications embarked on its new licence registration program, computerized three-year renewal, we explored with them at that time the possibility of trying to integrate our motor vehicle lien registration system with that, so people coming in, dealing with the purchase of a car, the registration of a car—I should correct myself; it is not the three-year licence, it is the plate-to-owner program—we just found out that trying to do both programs at the same time was just so great an undertaking that MTC said they could not handle it.

One of the long-term projects we have is to come back to MTC once their system is fully operational and in place and see if there is a possibility of adapting that program so we could key in a search of the liens. Anybody coming in with the licence, perhaps working from the vehicle registration number, could at that time automatically search liens at the time they are searching ownership.

Mr. Breithaupt: That would be an excellent prospect, through not only the registration number of the licence plate, but also through the serial number of the vehicle. There is no difficulty about getting it to that stage. In the meantime, a simple poster might save this person and a variety of others around the province the grief that unfortunately occurs, because we have presumed, as we must presume, that people know that often there are claims against cars by the bank, by a previous vendor, or as a collateral security, however it might be.

11:10 a.m.

Right now, on the poster idea, until you get to that stage which I dare say will evolve as a prospect and a very good one too, I think the ministry could benefit some individuals within the province by that kind of a program, perhaps in conjunction with the Ministry of Transportation and Communications location, or in conjunction with insurance agents and brokers as part of their education and service programs to their own clients.

Mr. Crosbie: I should mention that this is only a problem on private sales. Where a dealer makes a sale—

Mr. Breithaupt: I realize that.

Mr. Crosbie: —and there is a lien that he fails to detect, then the dealer has to absorb the cost.

Mr. MacDonald: Could I just make one comment? We do have a brochure called Buying

a Car that refers to the need to check for liens. It is not distributed at MTC. It is distributed mainly at the consumer information centres. The reason is the limited number. We only produced 25,000, basically because of cost. If you put in a whole distribution system, we could probably get rid of a million in a year if we really wanted to.

Mr. Breithaupt: I recognize that could be a problem. I do not want to untowardly delay us on this but the poster in the MTC office would be an opportunity, because the other requirements for insurance are there. I recognize that you do not necessarily have the facility to have a bundle of pamphlets in every car dealership and every bank branch or wherever else people congregate. We get some in our constituency offices and they are available and there are a variety of social agencies, the Better Business Bureau, and other contacts.

There is no problem in that because there are a great variety of places where this citizen could look—that is true—but the one place that does not seem to be covered is the MTC office. That would be an opportunity and I am pleased the minister will consider it.

Mr. Mitchell: With the initial question and all the interjections, my question has been answered.

Mr. Mancini: Just one small point concerning the very important matter raised by Mr. Breithaupt. Why can it not be one of the conditions the seller is obligated to undertake; to prove to the person buying the car that there are no liens against it? Why can it not be part of the regulations under law that you have to transfer the ownership over to the person, and you have to prove to the person buying the car that there are no liens against it? Then everyone knows the obligation is there and must be carried out. The issue of pamphlets and posters is all very well and good, but I do not think it would have helped Mr. Breithaupt's constituent.

Mr. Crosbie: What you are suggesting is that at the time of the sale, the vendor would have some legal obligation to produce a lien clearance and turn it over. That has a lot of merit. In some jurisdictions, they have made it a criminal offence to sell a car when you know it has been used to secure a debt. It becomes a criminal offence. I guess it is a form of fraud, in effect. It might be a criminal offence here if you have misrepresented the situation.

That would be the problem. We are talking about people who do not know their rights. If they do not know about liens, they are not going

to ask for the certificate. You have the same problem. It is really—

Mr. Mancini: I think you misunderstood me somewhat. Everyone knows that you must have insurance to drive your car. Mr. Breithaupt mentioned the rates are 94 per cent compliance. This could be something like everyone knowing you have to have insurance. You should be able to prove to the person buying your vehicle that there is nothing registered against your vehicle. It is just one step in the whole procedure.

Mr. Crosbie: I agree. I did not misunderstand you. What I am saying is that if everybody knows there is a lien problem, if they know enough to ask the vendor for the clearance, they know enough to seek it themselves. Your suggestion shifts the onus to obtain the certificate from the purchaser to the vendor. If the purchaser does not know enough to ask the vendor for that certificate, if he does not know enough to search for it himself, then your solution does not really answer the problem.

Mr. Mancini: It does not necessarily solve the problem.

Mr. Crosbie: It might create more knowledge. If you put on that sort of an onus and it was some sort of an offence to sell a car without producing such a clearance, you could build more process—

Mr. Gillies: Generally in society, we place more onus on the vendor to comply with commercial standards than on the purchaser.

Mr. Crosbie: I don't know. Maybe there should be a simple question on the licence form such as, "Are there any liens against this vehicle?"

Mr. Mancini: Something as simple as that.

Hon. Mr. Elgie: That says nondisclosure is an offence.

Mr. Breithaupt: I realize in our society the buyer still has to beware of a variety of things. We could make it easier for some people until we get to the stage where the computer may be able to provide reasonably current information on any claims against the vehicle. No doubt that will eventually be with us.

Right now, though, a way of sorting the thing out for the unsuspecting or unsophisticated purchaser who did not know to look would be some kind of a simple procedure. I have made a couple of suggestions. Perhaps they are worthy of further consideration by the minister.

Mr. Mancini: I have a couple of questions before we move on to a new subject. A few minutes ago we were talking about the number

of calls received by the consumer relations office at Yonge and Wellesley concerning consumer complaints. It was decided we were going to get some information as to how many calls come from outside of Metro and how many come from within Metro.

I have another question which deals with the disposition of the complaints. I am sure that on a number of the calls you probably just inform the individual to call another office to get the information. But I am sure a great number of the calls are probably handled through your own ministry. From my several years of experience in dealing with constituents, I have been given the feeling that on many of the calls they report to the consumer office concerning work done improperly, or buying cars which were supposed not to be defective but which turned out to be defective and things like that, there is not really a lot done about the complaints.

I was wondering whether or not the information concerning the disposition of the calls would support the feelings I have.

Mr. MacDonald: There is some confusion over the role of the consumer information centre and that of the consumer advisory services bureau. The people at the information centre are not competent to get involved in actual complaints. They generally refer complaint calls to the consumer advisory services bureau, which comes under the business practices division. That becomes a formal process.

The information centre is just that—an information centre. It would be fairly dangerous for them to try to get into a mediation kind of stance because they are not qualified to do that kind of thing. Generally, their role is to answer questions if they are simple questions, but if they are complaints, their job is to refer them to the experts—in this case, the people in the business practices division.

I am not sure if that answers the question on the centre itself.

Mr. Mancini: Yes, that answers what the role of the office is.

Mr. MacDonald: Maybe the question should be directed to the advisory services bureau, the group which gets into the Business Practices Act and the Consumer Protection Act in the mediation area.

11:20 a.m.

Mr. Cassidy: We have strayed a bit and gone to the question of the registration of liens and so on. A year or so ago I had occasion to use that service personally as a private purchaser. My

impression then was that the operation is rather difficult for a private purchaser actually to use.

It is not a one-stop service. Either you have to wait for material to be batch-processed on the computer and mailed out, which takes several days, or else you have to go and pay a return visit at the end of the day, having put your request in at the beginning of the day.

It may have been changed since, but certainly that is a big contrast with, say, the ability to go in and in 15 minutes get a company registered in another branch of the ministry. If you are concerned about services to the public, this is an area that should be carefully looked at.

Basically, the technology you are using is really not appropriate to the nature of the requests that come in. If you are stuck with an old-fashioned computer so that you can make those requests, get those things put out only once a day, then it seems to me there should be some facility where, for example, people can phone ahead, give the information over the phone and then arrive in person later in the day or the next day in order to pick up the printout and pay the fee at that time. I suggest that this be looked at.

Since Mr. Swart wished to talk about consumer matters in general, I think this is probably the most appropriate vote. He had hoped to be here on Friday to do that. Can we stand this vote down so he can make some comments he wished to make, since we have a hydra-headed kind of function of several of our members who have interests in particular parts of this ministry?

Mr. Chairman: I do not know whether it would come under any other item.

Mr. Cassidy: It might come under business practices, but I think because this specifically relates to the consumer information centre—

Mr. Mitchell: Mr. Chairman, I quite understand what the member for Ottawa Centre has been saying, but in this committee we have allowed pretty free-flowing discussion; we have not in any way inhibited it. If we pass this particular vote, when it comes to the area of business practices, with the leeway that is granted in this committee, I do not see why we would not accept the fact that the member, who is unfortunately absent, would be able to ask his questions.

Mr. Cassidy: Perhaps I can ask it this way then. On Friday, even if we are not at business practices, could Mr. Swart have some time then?

Mr. Mitchell: We have been pretty free here.

Mr. Cassidy: If that is acceptable, then I would be quite agreeable to accepting it.

Mr. Chairman: It seems to be agreeable to the committee. That will be fine.

Item 5 agreed to.

On item 6, analysis and planning:

Mr. Cassidy: Mr. Chairman, I have a couple of comments or perhaps questions here. There are two questions. I do not where they come; I am not even sure whether responsibility is firmly set as far as this minister is concerned.

I raised the question of Sunday openings during the course of my opening remarks. The transcripts have been very slow coming back; the minister may have commented on it in his response and I have not been informed. None the less, I would like to know if the minister would comment on whether this ministry has any policy or approach to the question of Sunday openings and what advice he has been giving to other departments of government that may have the specific carriage of legislation. I am thinking of the Retail Business Holidays Act. I am not sure whether that is your act or the Attorney General's.

Hon. Mr. Elgie: It is the Solicitor General's, actually. He spent some time in his estimates on it. I think last week he answered a question in the House put by the member for Oriole (Mr. Williams) on this very issue.

Mr. Cassidy: That began on Monday, I think.

Hon. Mr. Elgie: Yes. It is not something that specifically comes within our mandate even indirectly. If it is brought up in cabinet or in any policy group, I always take part in the discussion, but we have not developed any policy in that area.

Mr. Cassidy: You have not. Should you have, or does your mandate go that far?

The problem there is very clearly that if stores are open for seven days rather than six, they will do six sevenths of the business per day and wind up simply having extra overhead for the businesses and clearly a tremendous imposition on the employees. That is why I raised it under analysis and planning, because it seems to me that some of those general questions fall between the cracks as far as the government is concerned and nobody is responsible. Someone like the Solicitor General (Mr. G. W. Taylor) does not know a thing about the question of store hours and yet somehow he gets involved for various reasons. It might be more properly under the Ministry of Industry and Trade, Labour or—

Hon. Mr. Elgie: I am advised that has never been an issue we have looked at from a policy point of view.

Mr. Cassidy: Perhaps I could urge you to have some input. It seems to me that if nothing else—

Mr. Mancini: My personal feelings are that you should spend your time running your own ministry and let the Solicitor General run his.

Mr. Chairman: Are there any further questions on analysis and planning?

Mr. Cassidy: Yes, Mr. Chairman, I have another question which is again related to something that very much falls between the cracks.

You are probably aware that several hundred municipalities have now endorsed the efforts of the city of Toronto to have changes in the hours of daylight saving time, specifically to bring the move from standard time to daylight saving time forward from the end of April to probably the beginning of March. In other words, we would have the two months before the winter solstice—I believe that is correct—and the two months after with standard time to give us two more months of daylight saving with all the benefits in terms of access to sunlight, recreation and that kind of thing. All kinds of people can use it, particularly children.

Can you tell me—nobody else has ever been able to tell me—whether any ministry within government considers it has any responsibility for the question of uniform time?

Hon. Mr. Elgie: I cannot answer that. Do you have any comment on that?

Mr. Crosbie: I am afraid not.

Mr. Breithaupt: Even you are not responsible for the winter solstice.

Hon. Mr. Elgie: I would like to be.

Mr. Gillies: Who is going to assume responsibility for this?

Mr. Cassidy: That is my question. Thank you, Mr. Gillies.

Mr. Gillies: When it is a bad winter, it is all the Tories' fault. He is infringing on my rights to—

Mr. Chairman: How about the summers?

Mr. Cassidy: If it is a good summer, it is the New Democratic Party.

Mr. Breithaupt: I always thought the weather was federal.

Mr. Gillies: Somebody has to get a handle on the subject.

Mr. Crosbie: Mr. Chairman, I thought the original argument had something to do with

energy conservation, the daylight hours, the use of electricity and things of that kind. Maybe the Ministry of Energy is the logical ministry to look at it.

Mr. Cassidy: The point I am making—and it is a bit like the matter of Sunday hours—is it does not belong anywhere; nobody owns it.

I recall I put in a private members' bill many years ago to do away with standard time in Ontario and have daylight saving time year round. At that time, I discovered, of all things—talk about the tail wagging the dog—that the hours of change from standard to daylight time in the province were set by some railway standards bureau in Montreal and it dated from the time when the world moved according to railway timetables. Therefore, when the railways moved from standard to daylight saving time, it was determined that everybody else did as well. That seems a bit inappropriate given that we are paying zillions of dollars for Via Rail to run 10 trains a day throughout Ontario, when it is not a central fact for most people's lives.

When this question has been raised, the response of somebody—I cannot even remember which minister—has been, "If municipalities want to change, that is their prerogative." Technically speaking, that is correct, but practically speaking, it is incorrect because if Hamilton was on standard time for March and April, Burlington was on daylight and Oakville was on standard, we would be in a bit of a mess. In other words, if it is going to happen, it has to happen over a large part of the province at once. That means that effective action needs to be taken at the provincial level.

I think the case the city of Toronto makes is well taken. It is a compromise between those zealots who think they should have an extra hour for skiing in the afternoons in midwinters and people who are concerned about the well-being of children going to school on country roads in the winter or about the wellbeing of cows. Those concerns seemed to take equal precedence when this issue was raised.

11:30 a.m.

I simply express the concern and ask you to raise this matter with your cabinet colleagues and perhaps at least get some agreement as to which minister is responsible for uniform time in Ontario. Once that was decided, then it might be possible for the matter then to be resolved.

I think the appropriate ministry would be either this ministry or else the Ministry of Municipal Affairs and Housing. I would hate to

entrust anything more to the Ministry of Municipal Affairs and Housing, so I suggest you take it. Could the minister comment on that?

Hon. Mr. Elgie: It is something I have never given any attention to, but I will make some inquiries about it.

Mr. MacQuarrie: On the topic generally of time and the Time Act, I would rather be inclined to suggest it is an interprovincial matter. We should have uniform time standards across the country.

If for one have been urging here and there that the period of standard time be extended from the end of October through to the end of March which, apparently, is the equinox. Not only are there advantages from the point of view of energy conservation, but there are also studies that have been done by the National Research Council and others which show the number of accidents decreases, the crime rate goes down and the rest of it.

There has been opposition, particularly from some of the school boards in northern Ontario, to suggestions to increase the period of standard time, but I still think it is something that is deserving of careful consideration.

At least from the studies which have been done, it seems there are considerable benefits that flow from an extension. Although from the point of view of the Time Act it is applicable to Ontario only and would need to be amended, it is something that should be carried out at an interprovincial level as well.

Mr. Cassidy: What I hear you say is you would basically like to put April on to daylight saving, but leave standard time for the months from the beginning of November to the end of March. Is that right?

Mr. MacQuarrie: That is right.

Mr. Cassidy: I will certainly work with my friend from Ottawa with respect to this. However, as to making it interprovincial, I believe the eastern time zone in Ontario covers a population of close to eight million people because, as I recall, it goes up to beyond Thunder Bay.

Mr. MacQuarrie: Just beyond Thunder Bay.

Mr. Cassidy: That is correct. So really it is all but 150,000 of the population of the province. We are such a major element in the standard time zone that it seems to me it is not inappropriate for us to make that decision on our own and then ask our friends from Quebec. We are not changing eastern time; we are simply changing the time of application of the change from standard to daylight.

Mr. MacQuarrie: From the point of view of us in the Ottawa area with the province of Quebec right across the river, if there is a difference in time of an hour in terms of employment back and forth, we would be into all sorts of confusion.

Mr. Cassidy: I concede that is a problem. If we wait for the federal government to do something about it, my Conservative friend would certainly agree with me we will wait a long time.

Mr. Chairman: I think both of you should have lunch together. You could really discuss it. You could talk to your Ottawa colleagues while you are at it.

We will move on to analysis and planning.

Mr. Gillies: Why is he waiting for a response from the minister on what he is going to do about the weather and what he is going to do about the time?

Mr. Cassidy: Could the minister or the deputy just talk a bit about the strategic planning that goes forward within the ministry, given the evidence of the internal review on the trust companies that there was no effective strategic planning affecting that area?

Mr. Crosbie: One of the difficulties in talking about strategic planning is in defining what one means by strategic planning.

For example, the ministry some two or three years ago started working on the concept of an insurance exchange. This concept was developed in the financial institutions. It was related to a perception of the capital markets of Ontario and the importance of controlling the outflow of premium dollars. This was brought forward over a period of time and to various stages in the ministry's policy development area and eventually led to the establishment of a committee.

Is that strategic planning? Was it strategic planning when the concept was first brought forward?

The same is true with the motor vehicle accident claims fund. We have been looking at the impact of compulsory automobile insurance on the reduction in the number of claims that actually come into the ministry and the division has looked at the possibility of transferring residual responsibilities over to the industry.

This is a process that has been under review and development for a number of years. Is that considered strategic planning?

The ministry has a practice of meeting at least once a year. We usually go to some offsite location and our thinking is on the concept basis of where the ministry is going and what issues

we see affecting the development of policy in the ministry. As a result of that discussion, various policy initiatives are given acceleration or emphasis and we proceed on that basis. All these are examples of strategic planning.

Probably what is missing in this process is that we do not have a document called "The strategic plan for the ministry." I suggest that does not mean there is no strategic planning.

In our management planning process each year, the various program areas are asked to look at the factors they think are going to affect the development of their programs over the year. There may be comments on either the economic developments or other trends or consumer issues that are going to impact on what they are doing. I think all these things are strategic planning, but we have never taken all of them and brought them together in a single document and labelled it a strategic plan.

Mr. Cassidy: I accept that. If you spend all your time producing a document it may not have a hell of a lot of impact.

To be specific though, it would appear from the internal review of the trust and loan companies branch there may well be major areas in the ministry where strategic planning does not take place and there is no kind of effort from this group or from elsewhere to try to think ahead or to appreciate how what they are doing is interacting with changes in their environment.

Mr. Crosbie: I would be more inclined to say there is a lack of formal documentation of what the strategic planning is. If you look at the reply of the registrar to that issue, I think you will find he cites a number of areas in which the division was involved in what I think can be fairly called strategic planning. What we did not do was reduce it to a document. I suppose it is more difficult to demonstrate you are doing it if you have not documented it.

Mr. Cassidy: I read this. You are correct that it says, "No formalized process of strategic planning exists in the division." This relates to the loan and trust companies division. Then it goes on to give a number of examples of what is called strategic thinking, which is a reasonable kind of breakdown of the kinds of thinking that should be taking place.

The whole thrust of this report would suggest there was damn little strategic thinking taking place in that area as well, whether or not it was put into a formalized plan. Certainly the fact that there was not even something as simple as an effectively operating senior management

committee—it is pretty tough to have strategic thinking, let alone strategic planning, if there is not even any way senior management people are making sure they are communicating with each other on a regular and effective basis. Can you comment on that?

Mr. Crosbie: Once again, as I say, the examples I have given of what I think is quite properly called strategic planning occurred in the environment of the division. You cannot deny they occurred; therefore, it seems to me strategic planning was taking place. Whether the strategic planning dealt with the specific issues that became the matter of the trust companies investigation is another matter.

11:40 a.m.

Mr. Cassidy: The thing that concerns me is this. On the next vote I was going to come to the question of some of the comments made about the Liquor Control Board of Ontario management. Maybe I should direct this to the minister rather than to you, because it is perhaps a shade political.

This fall we have seen a number of examples of what goes on in terms of management activity within the government. We have this report, which I maintain is a scathing report of ineffective and bad management. Anybody who was responsible for this tragic comedy of errors would get fired forthwith if he was in the private sector.

Many of the same kinds of allegations are made in the Provincial Auditor's report with respect to the LCBO. We have the business about failure to have any respect for management procedures and so on which were laid down with respect to the conflict between Mr. Gordon and Mr. Wiseman. I have yet to hear whether Mr. Wiseman will be reinstated to his former job at the same time that Mr. Gordon is given a new job. The same kinds of problems exist with respect to some operations within Mr. Walker's department, although in this case I think the minister was more strictly responsible.

If every time we get behind the blue velvet curtain to see what is happening within the government we find that management is as ineffective and badly managed as we are beginning to find, does that not suggest there is a pattern? I say this to the minister. I have always had the sense that the government of this province, for all of its other sins, is a great deal better managed than the federal government. We are witness to the fact that it has not had the same luxurious proliferation of layer upon layer

of officials, bureaucrats and so on which you have found in Ottawa over the past 15 years.

I now begin to question that, because when specific examples of what is going on are made public we are raising lots more questions than we used to. Now that the Provincial Auditor is beginning to do the job in Ontario that the federal Auditor General has done for many years, lo and behold, we find that he is coming up with the same kinds of questionable management practices that have been traditional in the auditor's reports federally.

I do not know if either of you can comment on that, but perhaps with respect to this ministry, if we looked into four or five other divisions or activities would we find the same kind of thing?

Hon. Mr. Elgie: The LCBO, in response to the auditor, would say that the auditor did not understand some of their practices. Specifically, they would refer to the issue of imported wines and they would say that the auditor failed to recognize that there are certain times of the year when wines can be shipped and other times when they cannot because they need heated containers and so forth. They do necessarily have increased supplies, depending on the time of the year they order them.

The auditor also made comments with respect to the oversupply of domestic wine. The LCBO did have a management document that guided their purchases in the area of domestic wine, but they have agreed that probably it should be updated.

You may find, as we found on examining the loan and trust area, that a lot of things were not being documented and a lot of processes were not formalized. I have no hesitation in saying that we now clearly have to do those things because even if they are being done it is important that they be seen to be done and that they need to have a documented record of that kind of strategic planning.

I would hope you would also point out that in the white paper we have recognized there are other things that are needed. For instance, I think there is a need to have the legislative base and mandate re-evaluated on a regular basis, much as the Bank Act is re-evaluated on a periodic basis. There are no problems and even the federal government does not do that for other pieces of legislation. I think our insurance, loan and trust, credit union and mortgage broker legislation, all those sorts of things need to periodically undergo some regular review and that is one of the proposals in the white

paper with respect to the role of the commissioner of financial institutions.

Mr. Cassidy: I would agree with you on that.

Hon. Mr. Elgie: Yes.

Mr. Cassidy: My point about strategic planning is that if the process was going on and had been reaching into every area of the ministry, such anomalies as the fact that the responsibilities of directors of loan and trust companies had fallen significantly behind the requirement put on to directors of business corporations under the Ontario Business Corporations Act would have been identified and flagged. The minister has cited the 1964 and 1969 royal commission reports which related to the environment of the 1960s, which is a long time ago, and any process of strategic planning picks those questions up more frequently than once every generation.

Mr. Crosbie: One further comment I would make is that Mr. Cassidy has pointed out a phenomenon in the auditor's reports. I think it is fair to say the reason they are in the auditor's reports is because of the work of Management Board in developing the management standards for the province of Ontario.

I think I can safely say that the management standards that are in the process of being introduced in Ontario are as good as or better than anything in any other jurisdiction certainly in this country. The difficulty is that the management standards were developed as standards and they are in the process of being implemented, and part of that process has been a much higher emphasis on documentation of process than historically has been the case.

Now the Provincial Auditor coming into a ministry has suddenly been given a Bible of management standards that he can apply against the existing operations of the ministry and say: "The management standards say you should have this documented. Where is the document?" A lot of ministries are in the process of doing that documentation. I quite agree and admit that there are a lot of areas in the ministry where documentations to the full standards set out in the management standards program are not yet in place.

It is not easy work to do. It is time consuming. A lot of resources are required to complete the process and Management Board does not expect to have it accomplished overnight. In fact they see it as a process going over a number of years before the full management standards program is in place.

I would just ask you to bear that in mind. I

think the auditor has been given a tool, a set of standards by which he can now judge ministries and this is perhaps the first year, in about the last year, that the auditor has had that standard or that set of criteria to judge ministries by. I would question somewhat whether he has made enough allowance for the fact that it is a system in process, not one that is in place.

Mr. Cassidy: I think I understand what you are saying and I think it is a valid comment. I do not think it excuses such things as evidence that there were procedures and practices within the loan and trust companies branch, for example, which in certain cases had apparently not even been looked at for a period of 10 or 15 years.

One may be able to explain the fact that they are not up to scratch in terms of the documents published in the past year by Management Board, but the fact that they have sort of been sitting on stuff for seven, 10 or 15 years and not had any kind of periodic review it seems to me does indicate a failure in management, just as the evidence of absence of strategic thinking is more damning than the fact that there may or may not be a strategic plan which is written as a formal document.

Mr. Crosbie: I would challenge you there, because you are saying because it is not documented, that is evidence of the absence.

11:50 a.m.

Mr. Cassidy: No. I am saying that one can judge whether or not there is evidence of strategic thinking or its absence. In the loan and trust companies area, it is quite clear that there are some grave errors and omissions in terms of an appreciation of how the environment was changing and what should be done about it. That is what got us into the mess or helped to get us into the mess.

Mr. Crosbie: Again, I think you are overlooking a fact that was fairly clear in the Morrison report and other information that has been put forward. For some time, the ministry has had concern over the impact of the rapidly changing economic conditions, interest rates and that sort of thing. The issue is how you go about dealing with that, given the fact you were moving from legislation which was never designed to deal with that type of an economic situation. It was a coincidence of change in the attitude of some managers of financial institutions.

I think it was quite clearly pointed out that the financial institutions division was aware of this problem and was in discussion with the federal officials because two of the five companies we

are talking about were federally regulated, as are most of the trust companies in Ontario. We were working with the federal government in the development of some process by which we could come to grips with the new issues we had identified.

Unfortunately for us, this whole issue precipitated the matter and brought it all to a head under circumstances that none of us could have envisaged. The sale of the apartments and the fantastic amounts of money that suddenly became involved were something we obviously did not predict, nor would strategic planning have predicted it. But we certainly were aware of the change that was necessary because of the change in the economic conditions and we were working on ways and means of coming to grips with that.

In fact, it has been mentioned the ministry had initiated work with the federal government in which a team of senior financial people would have been put into the industry to do some sort of an analysis of how properties were moving and investments were being made, with a view to developing policies to deal with it. That was all called off when the flip occurred and we brought Morrison in on a more urgent basis than the process that was under way.

I do not think it is fair just to dismiss the financial institutions division and say there was no strategic planning going on. I think it was going on. Unfortunately it got overtaken by events.

Mr. Cassidy: I think it is fair to argue that this did not begin just in the summer of 1982.

Mr. Crosbie: But neither did our concern, either.

Mr. Cassidy: No, although from the Morrison report I would judge that the really outrageous investments by Seaway, Greymac and so on really began somewhere around the latter part of 1981. I am talking about a year's run up to the Cadillac Fairview flip.

None the less, the minister accuses me of 20-20 hindsight. I appreciate it is easier to comment on these things after the fact than before. He talks about how generous the government is in research allocations for the opposition parties. This strategic planning branch in your ministry, one ministry alone, has eight people, which is the total number of researchers we have in our caucus to cover 27 or 28 ministries. Those are our resources.

In addition to that, there is some responsibility for sensing what is going on, for strategic

planning, for knowing what the devil is happening within each of the branches and divisions of the ministry. That is part of management function and should be. Therefore, just talking about loan and trust, you have the resources of the financial institutions branch from the registrar down and you have the strategic analysis and planning area.

Somewhere in there, should not people perhaps have said to themselves: "Look, these flips with multiple-unit residential buildings are taking place. They are radically upgrading the value. The value is no longer what has been traditional in these little deals." Then from February 1982, when Cadillac Fairview announced its buildings were on the block, the division could have put two and two together and said: "Suppose somebody did that with Cadillac Fairview properties as well? What do we do then?"

I recognize it is easier to say that with hindsight but none the less, as you look at the record, it is quite clear that all of the MURBs and other flips that were talking place before were dress rehearsals for the ultimate flip, Cadillac Fairview.

Mr. Crosbie: That is the point I wanted to make, Mr. Cassidy. Concern was expressed by the division on these types of loans and the investments that were being made. The federal people were looking at it and they sent in federal appraisers to look at a number of these transactions.

The information we were getting back was they were not able to demonstrate any specific irregularity. The company took the property and sold it at the price they said it was worth. Now they may have sold it to themselves under some other numbered company, but on the surface, it appeared they had substantiated the values.

Federal officials were reporting back to us that they were unable to demonstrate that the values were unrealistic. The concepts of evaluation the appraisers had adopted and built into their appraisal process clouded the true value of property or real market value of the property. It was not as simple as looking at a file where it would be obvious that everything was wrong.

We had a lot of suspicions. After trying to come to grips with it, and dealing with the federal government on the normal investigative process, a decision was made that we would have to do something on a larger scale. We would have to put more resources in here and

do a larger investigation. As I said, that was under way.

Mr. Cassidy: The strategic question though, was first: What the devil is happening? I can remember going in to the bank—I seem to have to go too often—and talking about a loan and saying, “What do you think interest rates are going to be in six months?” A year or two ago the professional people in the area would just throw up their hands. They did not have a clue. They were as surprised by the reduction in interest rates to the present levels as they were completely taken aback by the increase to the 20 per cent range a year and a half or two years ago.

Extreme volatility; there is no question about that. That means the requirements on the regulators change. The ministry has to become more flexible and adaptable. They have to move more swiftly. It seems to me that part of the failure was at the strategic level.

Again, I recognize it is easier to say with hindsight, but part of the strategic failure was not to recognize they could no longer go at the pace they went before. You could also say the feds were responsible; they made the same mistakes as Ontario. After all, it is their insurance scheme, not the provincial one, which is out \$300 million for what happened. None the less, you and I are at the provincial level and talking about what is happening provincially.

I suggest there was a failure in terms of recognizing how much of a change there was in the environment and therefore being able to respond in an appropriate way.

Mr. Crosbie: I think it is fair to say that we did not have this diagnosed accurately as to what was going to happen in early 1982. If we had known then precisely what was going to happen, we would have moved then to stop it. I think the very volatility of the market that you talk about was another factor which made it difficult for regulators to second-guess investors.

Mr. Cassidy: Let me just say I am putting this on the record because it is going to happen again. It may happen in another area. One of the questions these people or the ministry's senior committee or the minister and his kitchen cabinet—whatever kind of thing you have, minister—should have been asking—I am not sure when you recognized that the regulatory powers over the loan and trust companies were inadequate—was, “Given the fact that we have not got the tools that we will probably need, what else can we invent?”

When an army in war time suddenly has a new

tactic used against them, they may have to improvise. I recall the tanks that could not get through the Bocages hedges in Normandy. Sir Winston Churchill himself, sort of picked up an idea and they built sort of a—

Mr. Crosbie: Snout.

Mr. Cassidy: —a snout, that is right, so the tanks could uproot the hedges and get through. It was very much improvisation at the last minute because they had not anticipated the problem.

I mentioned the use of disclosure of your power of publicity or the threat of publicity as a way of bringing those companies into line. In fact, that may have been the only thing you had to use, but you were afraid to use it. I suggest that if you had been thinking strategically, you would have come to the conclusion that it was either that or else leave the regulators in the position of being sitting ducks, which is what you were.

12 noon.

Mr. Crosbie: I think the white paper has addressed a number of these concerns. Action was taken in December 1982 with the legislation. There was a substantial improvement in the powers of the registrar to deal rapidly with a number of these issues.

Mr. Cassidy: That occurred after rather than before.

Mr. Crosbie: Yes. There is no question about that. Obviously we have to concede we did not get on top of this in time to prevent it. So we are all looking at it with hindsight. I suppose one can say, “Yes, if you had been doing more in this area it might not have happened.”

Mr. Cassidy: Let me just extend this to the questions I raised about pensions and pension fund administration.

The minister made some comments about this, which I thought were constructive. I pointed out that the winding up of some private pension plans in the course of the last year or two, many of which were related to shutdowns or going out of business or that kind of thing, could have been much more difficult had the returns coming into the pension plan investments at that time not been particularly good, and if interest rates had not been particularly high. As I recall, that was a factor.

If you look at what might have happened during those windups had interest rates and conditions not been so favourable, it might have come out rather differently. I suggested the regulation of pension funds bore many of the

signs of the regulation of trust companies back in the 1970s. That is; this may be an accident waiting for an occasion to happen. I wonder what kind of strategic planning is going forward in that area to try to anticipate the kind of problems that will be faced there.

One of the reasons the pension funds managed to survive is that only 20 per cent or so of the people who are potential beneficiaries ever benefit. An awful lot of people walk away from their employers' contributions because of the lack of vesting. Many employers leave those employer contributions in the fund rather than try to pull them out when the employee walks away, changes jobs, gets fired, or whatever.

That helps to ensure the viability of the pension plan because, effectively, the people who are ultimately the beneficiaries get not only what they have contributed and what the employer contributed on their behalf, they also get the benefit of the employer contributions made on behalf of the people who lose the right to entitlement.

The strategic question I would ask is what happens if you go from having 20 per cent or thereabouts of pension plan members ultimately drawing pensions to a situation where, with improved vesting and other changes which at a bare minimum are likely to occur, 50, 60 or 70 per cent are entitled to the use of the employer contributions? That could mean the financial viability of many pension plan funds could be quite seriously affected.

Have you been thinking about that? Have you been doing some scenarios about what will happen if the laws are changed? If not, why not?

Hon. Mr. Elgie: I can only say in that area there is some good evidence of looking forward. As you know, funding of benefits that are agreed to must take place within 15 years as opposed to double that time in our neighbour country to the south, where they can become funded within 30 years. In an endeavour to ensure there are funds there for employees, we have the 15-year provision.

In addition, recognizing some of the problems that might face us with the number of closures that have been taking place, we did in 1980 or 1981—I cannot remember the exact date—pass the guarantee to fund the provisions which are still in place. They are going to be used in the recent CCM bankruptcy. We have put in place mechanisms to ensure the accrued benefits are funded for those who have bargained for them.

These are two examples of areas where we

have tried to be in advance of other countries, particularly our neighbour to the south. We have learned from some of their experiences and tried to put provisions in place that would give employees protection they might not otherwise have, and which they would not have in any other province in Canada. It is the guarantee provision.

Mr. Cassidy: Okay. I put the questions; I hope some people in your ministry might look at those. They are offered constructively, and also with some concern.

We may come back to the other question about pensions and pension funds in terms of employee representation and so on, at a later time in these estimates.

Hon. Mr. Elgie: The select committee's report recommended there could be one employee representative.

Mr. Cassidy: It was a pretty paltry representation, yes.

Hon. Mr. Elgie: As you know, the pension commission has an employee, a trade union representative, on it already.

Mr. Cassidy: Yes, I recognize that.

Hon. Mr. Elgie: It has had that for some years.

Mr. Cassidy: A great deal can be done there. It is an area which basically has lagged behind in terms of attempting to update the operation of pension funds in regulation in the light of the realities of the 1980s and what we can expect in the future.

Hon. Mr. Elgie: Who administers the Time Act? Have you found that out yet?

Mr. Crosbie: The Attorney General (Mr. McMurtry) administers the Time Act.

Mr. Cassidy: On that point, the Time Act of Ontario only relates to the power to determine where the eastern times ought to be. It does not relate specifically to standard and daylight time here. That is not covered under Ontario legislation.

Mr. Elston: What happens when our Attorney General goes to Ottawa? Will we be without it?

Hon. Mr. Elgie: He goes to Ottawa frequently.

Mr. MacQuarrie: In my earlier comments on the time and the desirability of extending daylight saving time, I might have left the record a little bit confused, Mr. Chairman. I happened to be wool-gathering.

The position I endorse and advocate is that the period during which daylight saving time is

in effect should be extended to an eight-month period commencing March 1 through to November 1. I have already stated the advantages of the extended hours of daylight saving time. I think it should be pursued, whether it is through this ministry or by the minister with his cabinet colleagues.

Mr. Chairman: Thank you for your clarification, Mr. MacQuarrie. Mr. Gillies, you had a supplementary on pensions.

Mr. Gillies: Just pursuing some of the points Mr. Cassidy was making, I appreciate that a lot of the policy decisions in this area will rest more with the Treasurer (Mr. Grossman) and your ministry will be responsible more for the administration and regulation of the decisions that are made.

I think it would be well for us to stress this as members. Inside of the next decade, I really believe the pension issue is going to be the biggest single issue of public policy facing all of us. There are a number of areas, some of which are much bigger, I think, than those Mr. Cassidy touched on in terms of coverage and in terms of the portability of pensions.

A number of the recommendations we made in the select committee report could have tremendous consequences for your regulatory body. For instance, I think of our call for part-time workers to be covered in companies that have a pension plan for their full-time workers if desired by the employee.

A number of things would have an impact on you, and I think actually the Minister responsible for Women's Issues (Mr. Welch) should be looking at it too, because a lot of these coverage issues are women's issues.

12:10 p.m.

When we come to the vote on the pensions commission I want to get a better idea, minister, of where we are in terms of forward planning, if you have a feedback capacity from your ministry to public inquiries which might be stepped up.

I am not being critical of the commission, but they are operating with a very small staff. In my experience—at least in my riding—the volume of inquiries about pension matters is constantly increasing and, I expect, will continue to increase as society ages.

Item 6 agreed to.

Item 7 agreed to.

Vote 1501 agreed to.

On vote 1502, commercial standards program; item 1, securities:

Mr. Ruston: Mr. Chairman, with regard to the Toronto-Dominion Bank brokerage, is there any new information on that?

Hon. Mr. Elgie: The chairman of the Ontario Securities Commission is here, Mr. Peter Dey, and Mr. Keith Boast. I wonder if they would come up and sit with me. What is your end of the game?

Mr. Ruston was asking about the status of the Green Line Investor Service, as proposed by the Toronto-Dominion Bank.

Just by way of history, if I could go back a bit to last spring, banks under the Bank Act have always been allowed to carry out that agency activity on behalf of customers in a passive way. It has always been practised. With the freeing of rates, which occurred on April 1, and the introduction of discount brokerages, that particular bank decided to introduce a service which they have publicly advertised.

At the request of the securities industry—and the chairman can elaborate on it because of their concern that this might constitute an incursion into their domain, the securities area—the chairman held what is called a meeting—because the statute did not allow a public formal hearing on the process; but it turned out to be just that, so I will call it a meeting. In reality, it was a public hearing process that took some 22 days in which representatives from all over the country and from outside the country came and gave evidence. This fall, as a result, the chairman issued a decision with respect to the Green Line Investor Service and I will let him outline the review of the commission.

Mr. Dey: The decision of the commission was that in the commission's eyes it was not prejudicial to the public interest for financial institutions to offer access to order-execution services. The financial institutions would not be performing the brokerage function, they would simply function as an order-gathering facility, and the order would then have to be funnelled into the brokerage system.

There was a question of interpretation of one of the exemptions from the registration requirements in the Securities Act. In its decision, the commission decided that it should exercise its discretion under section 124 of the Securities Act to narrow that exemption to force the financial institutions to register with the commission so we could control the conditions

under which the order-executions access service was provided.

We have published the terms of that proposed order and the terms of the registration for comment by the financial community. The comment period expired on Monday of this week, but we have been asked for an extension, in particular by the Canadian Bankers' Association. We expect to have all the comments in next week. We would then propose to implement our recommendations probably by the end of the year.

Ultimately, we also recognize in the report that it is an important policy matter and that we should recommend to the government certain amendments to the legislation and to the regulations under the act which would implement our recommendations in the long term. We would expect those recommendations for amendments would be included in a revised Bill 176, which we hope we will be forwarding to the government by March 1984.

That is where it stands at present.

Mr. Ruston: In other words, 10 people could go in and order stocks through the bank and the bank would then have to order them through the brokerage.

Hon. Mr. Elgie: Through the discount broker. They would provide access to that service.

Mr. Dey: I would just like to take two minutes to elaborate on the theory the commission used to reach its conclusion. We decided every segment of the financial system has what we call a core function. That is a metaphor that has been used in most analyses of the financial system.

A core function, if you put the tag on it, does not mean very much until you decide what flows from that tag. We decided an exception should be made to the general rule of our free enterprise system; that is, that the performance of this function should be protected by legislation. It is recognized generally in legislation that affects all financial institutions, that the underwriting or new issue business of the securities industry is basically its core function.

But then we said, in order for the securities industry to discharge its core function, it must be able to develop the network of relationships which are essential to lay off the underwritten risk. That network of relationships is based upon the ability to provide full service brokerage.

Hon. Mr. Elgie: Which includes advice as well as the brokerage service.

Mr. Dey: It includes, basically, the provision of investment advice which affords the basis to solicit orders. We said, "We will administer our laws to draw a line around these functions because we think these functions should be protected, but outside that line, securities industry, you are going to have to compete with everybody else."

Hon. Mr. Elgie: There has been a lot of discussion about what is a core function and so forth. At the annual meeting of the Canadian Securities Administrators, they chose in their press release to call these protected functions. Is that true?

Mr. Dey: We took a lot of flak from the securities industry on our recommendations because they said, "We do not have one core function; we have three or four core functions." We asked: "What flows from that? What does it really mean?" We did not really get a response. We then went to the meeting of the Canadian Securities Administrators, explained our theory, and they said: "Let us get away from the core metaphor. Let us talk about fundamental or protected functions." So the jargon shifted a bit at the Canadian Securities Administrators meeting which was held two weeks ago.

Mr. Elston: I have one question inspired by a press clipping I have here. Can you comment on how you perceive the role of the Ontario Securities Commission and how you have expanded its role in dealing with securities transactions? I am looking at a press clipping on the Electra situation, which I understand is probably still in the courts. They do not know what to do with that one.

Mr. Dey: Yes, that is an action where judgement has been reserved. We are awaiting judgement.

Mr. Elston: I do not want you to comment on that, but the question changes, in terms of where you were five years ago and where you are now, and the question of how far the jurisdiction of OSC goes, and where you perceive the OSC going from here. I understand the whole question is jurisdiction.

12:20 p.m.

Mr. Dey: There are two aspects to jurisdiction. There is the philosophical question of how you perceive your responsibilities and then there is the strictly geographical question. We have a pretty clear view of our geographical jurisdiction. We regulate trading within Ontario. There is no question that because Ontario is the capital for the securities markets in the

country, when we implement a policy or issue an order there are often implications beyond our borders. It may affect the lives of securities issuers based in other provinces.

If a Vancouver company is listed on the Toronto Stock Exchange and we cease trading in its shares or we deny it access to the Ontario markets, that is going to affect its operations wherever they may be located, but I do not think there is much ambiguity about how we perceive our geographical jurisdiction. Traditionally, securities regulation has focused on investor protection, ensuring that the people who participate in the markets are honest, ensuring there is full disclosure of information to protect investors and to ensure that the statutes are administered to achieve these objectives. That is still our first priority; that has not changed.

But because the capital markets have become more complex, and the evolution of the Green Line Investor Service is a good example of that, we see ourselves as also having a responsibility to administer our laws in a manner that is consistent with the growth and the health of the capital markets. So we take an interest in who participates in the markets, not just for their credibility, but also for what they bring to the marketplace and what they will contribute.

Again, if I could use the Green Line Investor Service as an example, this was not one of the bases upon which our decision was founded, but I think a lot of us have some hope that with the comprehensive network of branches within the financial institutions, people who are traditionally savers will develop and interface with a financial institution that will make them aware of the existence of equity markets.

Once they become interested, they will find the ability of financial institutions to service their needs on a comprehensive basis is very limited, because of the terms of the registration we are imposing on them and, ultimately, they will gravitate to the full service brokers. In due course, we hope the markets will be more liquid and there will be a greater proportion of the Canadian savings dollar allocated to equity investments.

That is an example of when we engaged in, as the minister set this meeting, canvassing the broader policy implications for the capital markets as well as the regulatory aspects.

Mr. Elston: The question this really raises is how far do you go in terms of your mandate in protecting the investor, if that is one of the primary functions, the other being to preserve a

certain liquidity. The question becomes how far ought you to go in your role to protect that individual investor.

I understand transactions were done outside by people who were entirely inside the province. If that happens generally, do you see your mandate as taking some action somehow to protect an investor you feel may have been misled, even if that misleading or whatever has been done outside your geographical area?

Mr. Dey: I gave an example earlier of somebody based in another jurisdiction who might have access to the Ontario markets. We have a power under section 124 where we can, in effect, deny somebody the exemptions he needs to trade in securities which, in effect, is denying him access to the capital markets. So, it does not matter where the person is physically located. If he is accessing the Ontario markets, then we will exercise that power to prevent him from trading within the Ontario markets if we think there is a question of investor protection concerning his activities. In that case, we would want to keep him out of the markets.

I should add, in that respect, that Canadian securities administrators work, first of all, to develop or recommend legislation for their respective governments. That is, we have given up the idea of uniformity of legislation; but we have as an important objective, compatibility, so if somebody embarks on a national transaction, then he is not running into arbitrary distinctions from province to province which, in effect, frustrate him doing the deal. So, we have as an objective, the recommendation of compatible legislation to our government.

For example, we are convening another meeting at the Ontario Securities Commission next Tuesday and we have invited all the administrators from the other provinces to attend with us. The purpose of that meeting is to review a report which has been made to the commission for amendments to our takeover bid legislation. One of the issues which will be considered—and one, I am sure, which is important in the minds of the members of the Legislature—is this question of the follow-up offer, the sharing of control premiums. But that is just one of the issues which we will be considering.

All the administrators—I should not say “all the administrators,” rather, those who are able to be present—will be approaching the issue in one form. Certainly, I think it is vital that Ontario and Quebec have compatible legislation, and this seems to be the trend. Although there are obvious geographical limitations upon

our jurisdiction, we do work with the other administrators to try to develop a comprehensive national scheme of securities regulation and administration.

Mr. Elston: So, if you sell a sizeable tap of the Ontario market, whose final destination is some other exchange for instance, you might very well contact another administrator and say: "Take a look at this transaction. There is a sizeable outflow of Ontario capital and we are concerned about the types of disclosure or funding or whatever, on behalf of the—"

Mr. Dey: That is precisely the sort of role we would play. If somebody wanted to tap our markets, or if they were seeking capital generally, they would be required to file a prospectus with us. At that time, we would conduct a review as to the adequacy of the disclosure.

We have a blue-sky jurisdiction, as we call it, in some respects. We look at the fairness of the offering and our prospectus examination staff would make some judgement and they might ask the promoters of the transaction to justify the various financial terms, on the basis of fairness criterion.

Mr. Elston: What about a situation where—

Hon. Mr. Elgie: Excuse me. Were you not saying that supposing some Ontario residents were listing a stock in another province? That is what you are talking about, is it not?

Mr. Elston: No. I said if the outflow was a sizeable amount. That is part of the question in the problem currently before the courts. Mine was just the outflow of Ontario capital to another Canadian centre.

The follow-up question is: what about the outflow of Ontario capital to a location in the United States? Do you have any sort of reciprocity in dealing with protection of—

Mr. Dey: Do not forget that anyone who wants access to Ontario capital has to comply with our laws. He has to deal with investors in Ontario, so we do not need a reciprocal relationship; although there is informal co-operation among the various jurisdictions. We do not have a reciprocal relationship. If a US-based issuer wants to raise funds in Ontario, he will have to comply with our laws.

12:30 p.m.

Mr. Elston: He would have to come to you first?

Mr. Dey: Right, because he is dealing with Ontario investors.

Mr. Elston: I read this through the New York market or whatever when I went down there. Of course, that would not be known to you as a problem, even though I was taking—

Mr. Dey: I have been addressing my comments to the primary issues. Once you are into the secondary market, then generally secondary market transactions also have to be qualified for us. A secondary market should not develop in Ontario without the issuer being what we call a reporting issuer, where it becomes subject to our timely disclosure policies, insider trading obligations, the requirement to solicit proxies at annual meetings and that sort of thing.

Apart from ensuring that issuers whose securities are trading in the secondary market comply with these ongoing obligations, we do not qualify prospectuses or other disclosure documents on an ongoing basis, although this will probably be the trend. In theory, once a company becomes a reporting issuer, all it does thereafter is keep its prospectus up to date. Every time there is a material change, that should be filed with us and publicized so we have a marketplace that is continually informed.

Mr. Chairman: This may be a good time to adjourn. I just want to remind members that tomorrow we will be dealing with item 3 under vote 1502, which we agreed to last Thursday or Friday.

Mr. Cassidy: Does that mean we will do financial institutions, the trust companies, for as long as we feel like it and when that is done, we will revert back to these?

Mr. Chairman: That is when we will revert back.

Hon. Mr. Elgie: Could Mr. Dey give us some idea of the timing for he and his staff before we adjourn?

Mr. Chairman: We agreed we would allocate Thursday afternoon to financial institutions. That possibly meant all of Thursday afternoon.

Hon. Mr. Elgie: Could Mr. Dey come on Friday?

Mr. Dey: Yes.

Hon. Mr. Elgie: Will that be agreeable, Mr. Cassidy?

Mr. Cassidy: Yes, I think so. Perhaps I could take some counsel because I want to talk to my colleague's amendment, to see whether we want to extend the questioning of Mr. Dey or not. I am aware of the problems of time.

Could we just spend a minute talking about allocation? Tomorrow, we are doing trust com-

panies. Next week, I know my colleague, the member for Bellwoods (Mr. McClellan) was anxious that we get to questions of the minister's responsibility for the residential tenancies rent review. Can we have some agreement about setting some specific time with respect to that?

Mr. Chairman: We were hoping to do it this week when Mr. Renwick and Mr. Breithaupt

were here. I thought we would discuss that either late Thursday evening or early Friday morning. As to the rest of the agenda, as you suggest.

Mr. Cassidy: Okay, so we will discuss it late Thursday. That is fine.

Mr. Chairman: The meeting is adjourned. The committee adjourned at 12:33 p.m.

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From the Ministry of Consumer and Commercial Relations:

Crosbie, D. A., Deputy Minister
 Dey, P. J., Chairman, Ontario Securities Commission
 MacDonald, W., Director, Communications Services
 Service, J. E., Director, Personnel Services Branch



No. J-20

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations

Third Session, 32nd Parliament

Thursday, December 8, 1983

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, December 8, 1983

The committee met at 3:40 p.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

Mr. Chairman: I see a quorum.

Last Thursday, the committee had agreed to deal with vote 1502, item 3, in its entirety this afternoon.

Before we start; I think, minister, you have a question?

Hon. Mr. Elgie: Yesterday the member for Ottawa Centre (Mr. Cassidy) said he was not certain whether he wanted the chairman of the Ontario Securities Commission here. He has a hearing on and if we want him, I have to notify him. I know you did not have that wish, so I do not know how we will resolve it.

Mr. Boudria: I think since we certainly have plenty to talk about this afternoon with the items we have, I personally do not see we would have much time.

I do, however, have questions that I would like to ask him if he could perhaps become available tomorrow morning or some time.

Hon. Mr. Elgie: I only raised it because you will recall Mr. Cassidy would not free him today. Remember that?

Mr. Boudria: I was not here yesterday.

Hon. Mr. Elgie: Let's wait until he comes and we will do it then.

Mr. Chairman: Do the members agree? Agreed.

I think we should proceed with the itinerary we set out last Thursday.

Mr. Boudria: If I may, I would like to defer to the Leader of the Opposition (Mr. Peterson) for a series of questions, since I have to be in the House to speak on a resolution there. So in lieu of my starting the question rotation, if the chair would agree, my leader will do so instead.

Mr. Chairman: That is agreeable.

On vote 1502, commercial standards program; item 3, financial institutions:

Mr. Peterson: Mr. Chairman, I am delighted to have the opportunity to discuss the trust companies. I developed quite an interest in this. Somebody has to keep an eye on it.

Hon. Mr. Elgie: Your favourite subject. I thought we had narrowed it down, though, after your interview in Kitchener, as to who would keep their eyes on it. Now you have wiped all that out.

Mr. Peterson: You keep an eye on everybody in this business. It is my advice to you as well, minister.

I want to get into the entire issue of what transpired during this whole trust company thing, but just now I want to ask you what is happening with respect to some of the other trust companies.

I want to preface my remarks by saying I am going to mention names of companies but I want everybody to understand, as you understand, that we have increased the private insurance and I do not think anybody's funds are in jeopardy, that is not my point.

But it is no secret that some of the other trust companies have been under scrutiny as well, and indeed some of the smaller trust companies as well as the large ones have been caught in the quote, unquote, "mismatching." They went through a pretty tough period for a couple of years.

Hon. Mr. Elgie: Those are the credit unions, yes.

Mr. Peterson: And the credit unions, there is no question about that. It affected financial institutions generally and was a squeeze that we hope will never happen again, although we certainly have to prepare for it. We have to use the lessons we learned from this to make sure it never happens again.

I want to know the status of some of the smaller trust companies, such as Dominion Trust Co.

Hon. Mr. Elgie: You probably read some weeks ago that the shares of that company were acquired by Mr. Murray Goldman. He is now the owner of Dominion Trust.

I guess you want me to go back over the history of it. In June or July 1982, a trust company that had been operated by a family for at least 20 years was sold to a Mr. Stephen Axton, a lawyer, who had no trust company experience. As you know, the legislation at that

time did not give the registrar any control with respect to the transfer of ownership of existing trust companies.

Mr. Peterson: I understand what you are saying, but you had a certain power because you were involved, as I understand it, in encouraging Mr. Rosenberg to take over Crown Trust Co.

Hon. Mr. Elgie: Encouraging?

Mr. Peterson: You were encouraging Mr. Rosenberg to take over Crown.

Hon. Mr. Elgie: That is a new approach. No, I had no knowledge of anything in advance.

Mr. Peterson: Well, when the Burnett shares came on the market.

Hon. Mr. Elgie: No, I had no knowledge of that.

Mr. Peterson: While on this point, were you involved in any way in that transfer from Burnett to Rosenberg? Some people deemed Mr. Burnett not a fit shareholder.

Hon. Mr. Elgie: I know nothing of that, but the registrar may know something I do not know. Did you have any conversation about that?

Mr. Thompson: I never had discussions with Mr. Rosenberg. I do know there were Ontario Securities Commission hearings. I was to appear as a witness at the OSC because of the concern that Mr. Burnett had acquired in total a 34 per cent interest—the Cohen and Ellen 32 per cent interest and also the two per cent interest held by Co-operators General Insurance Co. The total meant 34 per cent. There had been experience before of the inability of Crown Trust to obtain passage of what I call the money bylaw in the sense of authorizing a change in its corporate share base.

Our concern was, and out of those hearings the phrase was coined, that 34 per cent might represent a veto control. Our concern really was that in three or four particular instances the company could not pass bylaws enhancing its capital structure, things such as this. That was the ground rule or the basis for the OSC hearings.

Mr. Peterson: The bottom line was you testified at that hearing that Mr. Burnett should not be allowed to purchase that block.

Mr. Thompson: I did not get to testify. In the

midst of the hearings we were told that Mr. Burnett had agreed to sell his shares.

Mr. Peterson: Under pressure from the OSC?

Mr. Thompson: Yes.

Mr. Peterson: Under no pressure from you?

Mr. Thompson: No.

Mr. Peterson: Were you ever consulted on the Rosenberg purchase?

Mr. Thompson: No, I was told, I believe in the afternoon, that Rosenberg had acquired the 52 per cent, I believe, of Canwest and he was going to acquire the Burnett shares that evening. Then I was phoned the next morning to say that he had. So in effect he had acquired something like some 80-odd per cent.

Mr. Peterson: Did you have any opinion on that Rosenberg purchase at that time? Are you telling me you had nothing to do with the Burnett and/or the Rosenberg purchase of the transfers?

Mr. Thompson: That is my entire knowledge of it, simply being told what had happened; and it happened in an overnight situation.

Hon. Mr. Elgie: Because of Mr. Axton's inexperience in the trust industry—and it took a fair amount of money to acquire the shares of that—the registrar of loan and trust corporations did have extra attention paid to the company. During the course of the fall it came to his attention that there were some—correct me if I am wrong—views expressed by members of our staff that someone felt that perhaps the money had not been his, that maybe it had come from another source.

Mr. Peterson: That was in the fall of 1982?

Hon. Mr. Elgie: Yes. Then later on we learned there were discussions going on with respect to the sale of the trust company to a Mr. Lanzino for the purposes of his 20-year-old son. We did have concerns about that too.

3:50 p.m.

As you know, the legislation was passed on December 21 and the registrar did not approve the transfer of the shares. During the winter months there was pretty extensive weekly monitoring, including an outside audit carried out by an outside auditing firm.

The documentation in the file would appear to be complete, both to our own eyes and to the eyes of the outside auditors, however, it was at that time that one of our inspectors—I cannot recall his name but I can get it for you—noted that the appraisal form on one of the documents

was signed by Dominion Appraisals and he had a recollection that two years ago that company had wound down. So he proceeded to carry out an investigation into that and found the company had been revived by Mr. Liptenstein. Dominion Appraisals under that particular owner, we gathered, acted as sort of a clearing house, acquiring appraisals on properties for Dominion Trust.

We initially took one of the appraisal forms by an appraiser who had been in business for many years and went to his firm to see the appraisal record that he had in his file. We found that both the front page and the back page had been changed and different numbers inserted with respect to the value of the property. He has since been charged with fraud.

With that information, and subsequent similar things turning up, Mr. Axton was persuaded to turn over total control of the company and building rights to his auditor.

Mr. Peterson: Was that under section 158 or what?

Hon. Mr. Elgie: Was that done under agreement or did we invoke the statute?

Mr. Thompson: No, we did it all by agreement.

Mr. Peterson: Would you agree with me, Mr. Thompson, did you have a great deal of power under the old section 158?

Hon. Mr. Elgie: Could I just finish and then we can go into that?

At the same time, the board of directors was changed and Mr. Ainslie Shuve was put in as chairman of the board to run it for the time being. Meanwhile, an attempt was made to see if any purchasers would be interested in acquiring the shares of Dominion Trust. Eventually, after going through at least one and maybe two other prospective purchasers, Mr. Goldman acquired the shares some two weeks ago.

Interjection.

Hon. Mr. Elgie: Charges against Mr. Liptenstein are forging and uttering.

Mr. Peterson: Are there any charges against Mr. Axton?

Hon. Mr. Elgie: Criminal investigations are being carried on at the present time. The information was turned over to the Ontario Provincial Police fraud squad.

Mr. Peterson: Is any public money in there? Did the Canada Deposit Insurance Corp. have to come in there at all?

Hon. Mr. Elgie: No.

Mr. Peterson: That is stabilized at the moment?

Hon. Mr. Elgie: Yes, it is stabilized. There seems to be absolutely no doubt about the financial resources of the present owner. Part of the agreement was that he would retain the services of people experienced in the trust industry.

Mr. Peterson: One of the things we established in the past was a series of violations by a variety of these companies of the Loan and Trust Corporations Act—the 75 per cent rule and all of that kind of thing—in a number of these companies, Continental Trust Co. and others.

Hon. Mr. Elgie: Again, I think we have to be careful in painting broad strokes. It is difficult to know how much damage one does in talking about these things, because it is our impression the Dominion situation was made much more difficult because of the publicity. However, you have asked.

I do not think you can paint a broad brush over the Continental issue. My recollection, although I have not talked to the registrar about it for a long time, is that it narrowed down to one area of managers—did it not, Mr. Thompson?

Mr. Thompson: Yes, it was the mortgage manager in the Toronto office.

Hon. Mr. Elgie: It was not general.

Mr. Peterson: I can point to a series of violations in a variety of companies. I think we have established that. I can haul that out for you, chapter and verse, if you would like.

Hon. Mr. Elgie: As soon as we acquired the information we did notify the federal government about it.

Mr. Peterson: Did you ever lay any charges under the Loan and Trust Corporations Act?

Hon. Mr. Elgie: Did we?

Mr. Peterson: Yes.

Hon. Mr. Elgie: No, the Attorney General (Mr. McMurtry) has that matter under consideration. He is taking advice on that.

Mr. Peterson: Does he proceed with that or do you proceed with that?

Hon. Mr. Elgie: We would do that on advice from the Attorney General.

Mr. Peterson: I think one thing we have established in this conversation before, over a period of months, is that there were a great number of violations of the Loan and Trust Corporations Act.

Obviously those are minor charges compared to some sort of criminal charge or fraud charge

or conspiracy. There is no doubt that you know and I know they could be charged under the Loan and Trust Corporations Act today, and probably sustain a successful conviction.

Hon. Mr. Elgie: You cannot predict, one has only to look at a number of issues: namely, the nature of the penalty if there were a conviction; and secondly, whether or not that serves as a precedent for subsequent events.

Mr. Peterson: Presumably the Attorney General, and I am speaking in broad terms now, is investigating all of these trust companies at the moment. He will decide, at some time or other, whether to lay charges. Is that a fair summation of where we are now?

Hon. Mr. Elgie: Accurate.

Mr. Peterson: Why have you chosen not to proceed, and I am speaking in broad terms now, is investigating all of these trust companies at the moment. He will decide, at some time or other, whether to lay charges. Is that a fair summation of where we are now?

Hon. Mr. Elgie: I really cannot expand on that, other than to say we are waiting for the advice—

Mr. Peterson: You have the power to do that.

Hon. Mr. Elgie: Just wait a minute. The Attorney General is the chief crown law officer. He uses that phrase very frequently, as you know, and that is his role.

Mr. Peterson: I thought we just established it as your responsibility to lay charges under the Loan and Trust Corporations Act.

Hon. Mr. Elgie: We have asked the chief crown law officer for his recommendations, and he has to look at it in the light of all the investigations that have taken place.

Mr. Peterson: You have a spate of lawyers and investigators working for you; this thing has been investigated by everybody from here to Thunder Bay. Why have you chosen not to lay any charges at this time?

If you look at this in broad terms, we have the interesting spectre of hundreds of millions of dollars being taken over with no recourse to the courts under any of the legislation and no charges. If you look at it in that context, it is a very weird situation.

Hon. Mr. Elgie: I do not think there need to be charges, under any legislative act, that flows from what we did, but I think what you are saying is we should disregard the overall investigation and lay charges under the Loan and Trust Corporations Act, regardless of the Attorney General's view with respect to the overall situation. I can only repeat again that we are not

prepared to do that. We are prepared to have the chief crown law officer give us his advice about how one should proceed in this.

Mr. Peterson: So you are telling me that if you can get them, or whoever, on a bigger charge—fraud, conspiracy, theft or whatever—you will not fool around with the provincial offence of violating the Loan and Trust Corporations Act. Is that what you are telling me?

Hon. Mr. Elgie: I am simply saying what I said before. We are waiting for his advice.

Mr. Peterson: What is the state of those investigations? How far along are you? Is this thing going to drag for a decade or two, or one year, or six months?

Hon. Mr. Elgie: I know it is a very complicated investigation, made somewhat easier because of the documentation but nevertheless it is still considered to be a very complex investigation. It may even take a few more months. I would have to get that information.

Mr. Peterson: Is it a matter of months now?

Hon. Mr. Elgie: I do not know.

Mr. Peterson: Mr. Thompson, do you know?

Mr. Thompson: No, I am sorry, I really do not know. It is headed up and conducted by the Ontario Provincial Police. We do have a source there. I can tell you they are taking into account charges under the Loan and Trust Corporations Act as well as under other statutes; they are looking at everything.

Mr. Peterson: You have delegated that legal responsibility of laying charges under the act to the Attorney General. Is that what you are telling me?

Mr. Thompson: No.

Hon. Mr. Elgie: I would simply reiterate what I have said before that the Attorney General is the chief crown law officer.

Mr. Peterson: But he does not lay the charges under the Loan and Trust Corporations Act.

Hon. Mr. Elgie: We are awaiting his advice and recommendation, and will follow that advice.

Mr. Peterson: If he decides to lay charges under that act, he has to bring it back to you then?

Hon. Mr. Elgie: Yes.

Mr. Peterson: So you are waiting for his advice on what to do?

Hon. Mr. Elgie: Yes.

4 p.m.

Mr. Gillies: Could I ask a supplementary on the Dominion Trust Co. situation? Thanks, David.

Now that Mr. Goldman has acquired the assets of Dominion Trust Co., what do we expect the recovery to be on those mortgages? I remember reading in the Financial Post that during the trial counsel for Mr. Axton said he thought most of the \$1.6 million to \$1.8 million in mortgages were soft and recovery might be somewhere between \$600,000 and \$800,000. This is a substantial loss. Will it be covered by the Goldman purchase?

Mr. Thompson: The Goldman purchase, which was a little over \$3.5 million, was bought out of the portfolio of Dominion Trust Co. and replaced by cash. In effect, the \$1.8 million in mortgages was replaced by cash.

One way of looking at it is that Mr. Goldman got half the purchase price back instead of the mortgages. The mortgages were transferred into the High Tower holding company.

Mr. Gillies: So the mortgages should be covered. I assume the Canada Deposit Insurance Corp. did not get involved and there are no problems with individual deposits?

Mr. Thompson: There are none at all. They were kept informed throughout the process.

Mr. Gillies: A year ago, on the same day you took control of the assets of the other companies, you moved to block the sale.

Hon. Mr. Elgie: No. December 21, the day the bill was passed, was the day scheduled for the deal's closing. This is one reason we felt it was important to have the legislation passed. Shortly after this, Mr. Thompson did not agree to the transfer of sale shares.

Mr. Thompson: The day after the closing I called the lawyer for the company at the time and he told me the shares had been registered. I told him they were not because our examiner, who was there, said they were not registered. That is how close it got.

Mr. Gillies: You never felt the situation was analogous enough to the other companies to require you to take control of the assets of Dominion Trust Co.?

Mr. Thompson: No, not at that time.

Mr. Gillies: Did you feel so later on?

Hon. Mr. Elgie: We had weekly monitoring and an outside audit in place. One of our inspectors recognized the name of the appraisal firm and recalled that two years previously it

had gone out of business. He traced those events, which revealed certain other information.

Mr. Peterson: Is there CDIC money in any of the smaller trust companies?

Hon. Mr. Elgie: No.

Mr. Peterson: Are you satisfied that all of the ratios, documents and appraisals are in line and that there are no violations of the act in any of those smaller companies?

Hon. Mr. Elgie: There is a compliance order in one company in line with the act passed on December 21. The company is living up to the compliance order completely. The depositors were never at risk. It had to do with other issues such as ratios.

Mr. Peterson: I never worry about depositors.

Hon. Mr. Elgie: I know, but I do.

Mr. Peterson: I don't because they sue if they have lost anything.

Hon. Mr. Elgie: I cannot recall whether or not there are any other discrepancies, such as the ones you are worrying about.

One has a \$200,000 mortgage which we are requiring it to get rid of.

Mr. Peterson: We pointed out a number of properties we have found with our very limited resources. As to following you around, we never followed you or any of your staff around, I want you to know that. You were getting very paranoid when that discussion was going on.

Hon. Mr. Elgie: Just suspicions that they happened to know the guy who was walking behind them.

Mr. Peterson: You were getting very paranoid during that whole exercise.

Hon. Mr. Elgie: I am not sure who was getting paranoid.

Mr. Peterson: I was very worried about your mental health for a while.

There is a sense in the industry that some of these companies do not have the natural capability to survive. Because CDIC is there and we have all of those limits in place, depositors will not lose but there are still ongoing problems.

Hon. Mr. Elgie: I do not think I have missed anything I am aware of on the two situations.

Mr. Thompson: No. I can perhaps put it in a little different context. From my point of view, looking at a company, first as to solvency and secondly as to profitability, these companies have come through a bad economic time. There is no concern on the solvency here, but a

number are having problems getting into a profitable position.

Mr. Peterson: Quote the government.

Mr. Thompson: Yes. The only thing with a financial institution audit is that you have to do some pretty severe things, such as cutting back on staff. You find you have branch closings, staff reductions, cutting back on expenses wherever possible, reduction in the amount of money you are taking in—pretty drastic solutions coming through in a lot of areas.

Mr. Peterson: We have pointed out over a period of time a number of what we consider to be specific violations of the act. Nobody ever disagreed with us; at least you publicly did not disagree with the information we presented to you.

Hon. Mr. Elgie: We knew it already, but it showed good endeavour on your part to find it as well.

Mr. Peterson: You may have known, but we had to find it on our own, not having access to the books. You chose not to share any of the information at the time.

Is London Loan Ltd. up to scratch now? Are you contemplating any charges against any of those companies under the Loan and Trust Corporations Act? They were in violation in a technical sense.

Hon. Mr. Elgie: Murray, would you comment on London Loan?

Mr. Thompson: Not on London Loan under its present management at all.

Mr. Peterson: Then we are letting those violations go?

Mr. Thompson: This management did not commit any violations at all.

That company came out of the Argosy group in 1980. It had some mortgages that were in violation of the act. I think we have to clearly distinguish that one of the effects of the legislation on December 21 was to establish offences—to take a lot of the previous violations or infractions of the act, which really were not enforceable by sanction, and put them in the act as offences.

There was a pocket of mortgages that they took over. The choice there, and this is a judgement factor, was either to order a sale of those mortgages or else to let them try to work them out. They had a value. They were not fictitious, so they did have a value. We worked very closely with them in working out that mortgage, that segment of the portfolio; but

there is nothing whatsoever to indicate since that time, in the rest of the portfolio, that this is anything other than a well-run company.

Mr. Peterson: Your thrust is to try to get the assets or the companies in the hands of responsible, well-financed business people who understand the rules and are going to run them well.

Mr. Thompson: Yes.

Mr. Peterson: In spite of a great number of violations, you did not lay any charges during that period.

Mr. Thompson: There really were no charges that could be laid back in 1980 for the overvaluation.

Mr. Peterson: What about 1981 and 1982?

Mr. Thompson: No, it was not until December 21, 1982. One of the significant features of that legislation was to take so-called offences and make them actual offences in a lot of these areas.

4:10 p.m.

Mr. Peterson: It is small potatoes compared to a criminal charge, but there are a number of offences, such as violating the 75 per cent rule and a variety of other things, and there are penalties prescribed for that kind of thing. You could have moved in a quasi-criminal way against these companies had you so chosen. You had the power to do that.

Mr. Thompson: No, I am sorry; I could not agree on that.

Mr. Peterson: Well I will read the act to you. But I am under the impression, too, Mr. Thompson, and on this we fundamentally disagree, that you had much wider powers than you and the minister have consistently pretended you had. I will read subsection 158(2) to you. It says:

“(2) Where the minister, after full consideration of the matter and after a reasonable time has been given to the corporation to be heard by him, and upon such further inquiry or investigation as he sees fit to make, agrees with the opinion of the registrar under subsection (1), the minister may do one or both of the following,

“(a) make the corporation’s registry subject to such limitations or conditions as he considers appropriate;”—and that is an incredibly wide power—

“(b) prescribe a time within which the corporation shall make good any deficiency of assets.”

Then you can go to the Lieutenant Governor in Council, who “may order the registrar to take possession and control of the assets of the

corporation and the registrar shall deliver a copy of the order to an officer of the corporation."

You have a huge stick over these guys here, in my opinion, which you chose not to use. Your argument consistently, Dr. Elgie, has been that you did not have the power before that time. I would vouch that you did have the power but you chose not to exercise it.

Hon. Mr. Elgie: I think you ought to read subsection 158(1), and the registrar may want to comment on this. It says, "Where the registrar is of the opinion that the assets of a provincial corporation are not sufficient to meet its liabilities . . ." That is what would trigger the events, not the kind of things you are talking about. There are no penalty provisions there.

Mr. Peterson: No, but there are other penalty provisions and the 75 per cent rule and all that kind of thing. I will get a copy of the act.

Mr. Thompson: We were talking about laying charges in a provincial court as distinct from an administrative proceeding here.

Hon. Mr. Elgie: This is an administrative proceeding.

Mr. Thompson: But the key thing to trigger that is the existence of a state of affairs that says there is a deficiency of assets over liabilities.

Mr. Peterson: Which there is in your opinion, and which has clearly happened in the three big trust companies under—

Mr. Thompson: But you can have a violation without the deficiency.

Mr. Peterson: There is both. I guess we are getting confused here. I am saying there are a lot of specific violations. That does not necessarily affect the big question of the deficiency of assets over liabilities. We have clearly determined that in the three major trust companies there was a deficiency of assets over liabilities.

Hon. Mr. Elgie: That was not the ground upon which we moved in January.

Mr. Peterson: I am saying you could have moved under that; I am saying you had the power to move and you chose not to.

Hon. Mr. Elgie: Yes, but you prefaced your remark by saying there were charges to be laid and you referred to section 158. What the registrar and I are saying is that it is an administrative procedure where the registrar deems that the liabilities exceed the assets.

Mr. Peterson: I have confused the issue and I apologize. There are other sections that deal with charges for violation of the 75 per cent rule

and others, and I will get those for you and refer them to you.

But I am saying also that you virtually had the power to trustee or take over under section 158 before the passage of the emergency legislation on December 21, 1982. You chose not to use that power; and one of the great rationales you consistently used during the long discussion was that you did not have the power and there was nothing to do. I just want you to know that I fundamentally disagree.

Hon. Mr. Elgie: You disagree with that. That is okay.

Mr. Peterson: I fundamentally disagree with the rationale you used, and you are wrong. I think, frankly, you used that as an excuse not to act or as an excuse for not being on top of the situation. That is my view.

Now let us get into the—

Mr. Thompson: May I explain the situation of trying to exercise that power and the experience that we saw in the case of the Cardinal Insurance Co? In very similar legislation under the Canadian and British Insurance Companies Act, it took eight months to go through the court process of fighting through the courts as to whether this type of power could be exercised right back to whether that particular state of affairs existed. During that eight-month period there was a company in a position where all its insured were unable to operate or unable to have any sense that they had any form of insurance coverage because they knew the company could not accept any form of additional premium. There was great indecision; people had to cancel their insurance and place their insurance elsewhere. What I am really suggesting is that when people are putting their paycheques in a deposit-taking institution, one cannot allow that situation to run for eight months.

Hon. Mr. Elgie: You have the right to have your view, but we specifically sat down and reviewed the legislation and the securities legislation to see where there were options that would offer the kind of protection to depositors we felt was necessary. There was not, so we proceeded with the bill on December 21.

You may, in retrospect, say you would have done something differently. I can understand that. All I am telling you is that, having taken all of the factors into account, we deliberately took the steps we did.

Mr. Peterson: Perhaps there is no reason to pursue this, but I am just saying that you had the

powers in June, July, September or October of 1982, when this thing was really coming to a head, to make the move then that it took you until last January or February to make. You had that power.

Hon. Mr. Elgie: We have a power now.

Mr. Peterson: You had the power that was essential to give you the clout.

Hon. Mr. Elgie: We had a power, but it was our determination that it was not an adequate power to deal effectively with the issue.

Mr. Peterson: I am saying it could have been dealt with earlier and saved everybody a lot of money and a lot of grief.

Hon. Mr. Elgie: I do not agree with that, by the way, so I cannot say that.

Mr. Peterson: When did it first come to your consciousness that Greymac and Seaway were in trouble?

Mr. Thompson: Their history was relatively short—within a year, as you know. In the case of Seaway, the first time I met Mr. Markle was within about three months of when he took it over. He was called to our office concerning what I thought was a risky practice of advancing funds, not via or through his lawyer but securing the mortgages directly to the owner of the property.

Mr. Peterson: When was that?

Mr. Thompson: That would be in January, just after he took the company over.

Mr. Peterson: Of 1982?

Mr. Thompson: Of 1981.

Mr. Peterson: I am sorry, 1981.

Mr. Thompson: That was the information that had come to us from the examination. We spent a long time talking about a trust company lending other people's money and the necessities for it. To my way of thinking, we had hoped we had established an understanding about it over that one incident. There was a continuing dialogue—

Mr. Peterson: Between you and Mr. Markle.

Mr. Thompson: Between my staff and him.

Hon. Mr. Elgie: Why did you put him on a quarterly licence?

Mr. Thompson: We had a few worries.

Mr. Peterson: When did you start to say, "Holy smoke, there is something funny going on that is not being cleaned up and the books are a mess;" because all those things are a matter of record now?

Mr. Thompson: There was a continuing dialogue with him about the move from Port Colborne to Sheppard Avenue here in Toronto and a sort of a relocation of the company. There seemed to be continual confusion about keeping the records up to date. It was under continual discussion. In fairness, there had been some improvement through the course of this. There was not a standard there—

Mr. Peterson: There is a point, after you have given a person every lenience and said, "He does not know or he is not informed of the rules, and we will work along with him," at which you lose patience. You say, "Look, we have given him warnings, advice and help and he is not doing anything about it."

When did you decide he was not either willing or capable of cleaning up the operation?

4:20 p.m.

Mr. Thompson: As you know, through the course of this we started off with a quarterly licence and then we reduced it.

Mr. Peterson: When was that?

Hon. Mr. Elgie: In 1981.

Mr. Thompson: Yes, in 1981.

Mr. Peterson: Dr. Elgie would argue, as he has in the House, that you did not have the power to put the company on a quarterly licence.

Mr. Thompson: That is right.

Mr. Peterson: But you did it anyway.

Mr. Thompson: We did it on—

Mr. Peterson: Could you carry that a little way, Dr. Elgie? When you told us why Greymac was not kept on a monthly licence, you said you did not have the power to do it. So you arbitrarily exercised the power whether you had the authority or not. The only problem is you are always wrong. You put them on a quarterly licence. I heard you argue eloquently both sides of that argument and it gets you nowhere.

Hon. Mr. Elgie: You admitted you were wrong.

Mr. Peterson: I am not sure where that takes us. So you put them on a quarterly licence in 1981?

Hon. Mr. Elgie: Murray, he is speaking to you.

Mr. Thompson: Oh, I am sorry, sir.

Mr. Peterson: You put them on a quarterly licence in 1981?

Mr. Thompson: Yes.

Mr. Peterson: Then twice in 1982 you increased their authorized capital—

Mr. Thompson: No, we did not increase it.

Mr. Peterson: You gave them—

Mr. Thompson: We allowed them to amend their letters patent to increase it. They raised the capital.

Mr. Peterson: I am sorry. They would amend their letters patent to increase their capitalization.

Mr. Thompson: Yes.

Mr. Cassidy: But you recommended it be done and then came to cabinet for an order in council with the decision?

Mr. Thompson: That is right.

Mr. Peterson: Why would you do that?

Mr. Thompson: You can see it in the Morrison report and in the others and I am saying it here: they were continually saying, "Look, this is our capital; increase our borrowing multiple." We kept saying to them they were not running in a proper fashion and were not going to take more money from the public based on their commitment of capital that was in the company. That is what it was all about. They said, "We will have to raise more capital."

In ordinary circumstances, I think if people put in more money then they have a greater commitment to that corporation. Basically in trust companies, in some of these cases, people virtually have their whole fortune in the company. You are dealing with people who have at least \$1 million in it.

Mr. Peterson: So you wanted to get him more committed personally. You figured the more he had personally on the line the less likely he was to foul up the situation. Every time he put more money in it allowed him to borrow what was it—13 or 20 times?

Mr. Thompson: Twelve and a half.

Mr. Peterson: I am sorry, twelve and a half in this case.

Mr. Thompson: Twelve and a half was the minimum.

Mr. Peterson: Twelve and a half times more from the public. So if you let him put \$1 million in personally, he could take \$12.5 million out of the public.

Mr. Thompson: That is correct.

Mr. Peterson: But you figured that was a risk worth running because you got him more committed. Was that your logic?

Mr. Thompson: That is right, at that stage.

Mr. Peterson: It seems to me that you knew at the time that the books were a mess and he was not complying; that things were fouled up. He was either an inefficient administrator and did not quite understand the business or whatever. At the same time there were just floods of papers coming out that he was violating the Loan and Trust Corporations Act at the very least; that was demonstrably proved on many occasions.

I cannot understand how you would go to the minister and cabinet and say: "We should put the public further at risk for another 12.5 times multiple." I cannot understand that part. It seems to me you would solve the problem you had before you allowed them to create more problems. Can you explain that to me?

Mr. Thompson: You would have to go back to the facts as we knew them at that time.

Mr. Peterson: Did you know about all these violations, the funny paper, the multiple-unit residential buildings deals and all that kind of thing?

Mr. Thompson: No.

Mr. Peterson: We found them pretty easily.

Mr. Thompson: Sure. We started through too; and certainly today I can look back and say, "Boy, if we had known then." The fact of the matter is that the way the system operates, even with an examination it is based on the annual return filed as of the year-end the previous year.

The fact is there are literally hundreds of thousands of mortgages in financial institutions in this province. You are trying to demonstrate more in the Dominion deal. You can look at something from an examination process, not just us but an audit as well, and you are really checking the system it is operating under and your concerns with respect to that system. You cannot, obviously, go through and check every mortgage property.

Mr. Peterson: You can surely spot check.

Mr. Thompson: Yes, and that is another thing. You raised the question of Continental. We referred the files we found in our investigation to the federal department. We went in and took the files, locked them inside. They had just completed an examination.

Mr. Peterson: Normally, the way the system operates, Mr. Thompson, is that you know basically who you are playing with. You know the players in the various companies. You know, by and large, who is a pretty good operator and who is not. The income tax people

work the same way. There are certain people who get audited every year and certain people who do not get audited once every 10 years. Your inspectors and yourself and the minister form judgments about the companies.

You all knew for two years that Mr. Markle was not complying. You put him on quarterly licences. Although it was illegal, you did it anyway. You were telling him to clean up; then you increased the capital, increased his exposure. When did you first tell the minister you had a problem with Seaway? When did you drag him into it?

Hon. Mr. Elgie: We started talking about it in July, wasn't it?

Mr. Thompson: Yes.

Hon. Mr. Elgie: July 1982.

Mr. Thompson: Yes, it was.

Mr. Peterson: That is about a year and a half into the problem.

Hon. Mr. Elgie: He said he was concerned. To be fair, he expressed concern about the valuations. The documentation was there. There were appraisal firms with documents on file. Mr. Thompson expressed concern about the values being placed on properties.

As a result of that he commenced discussions with the federal government, with the Canada Deposit Insurance Corp., for a joint effort to put many more people on it. Obviously, anybody who is in the business knows it takes a lot of people a lot of time to carry out an extensive review of the valuations that were on the files of these companies.

Mr. Peterson: Is that right, Murray?

Mr. Thompson: The big problem we had, as we tried to explain the other day, was who to get valuations from. Who could we get to value independently?

Mr. Peterson: Why didn't you just hire an appraiser?

Mr. Thompson: It is not that easy. Part of our discussions with the federal government were zeroing in on using government appraisers.

Mr. Peterson: Let me take you back —
Interjection.

Mr. Peterson: I am sorry, Mike. I want you to participate in this, but I am worried about this. Dr. Elgie first knew in July 1982. In January, and correct my facts if they are wrong, there was an

application for increased capitalization, one in January and one in July. Right?

Mr. Thompson: No, there was only one.

Mr. Peterson: There were two in 1982.

Mr. Thompson: No, there were two issues.

Mr. Peterson: When did you take that to cabinet?

Hon. Mr. Elgie: I did not take that one to cabinet. The Greymac increase in capitalization was one the registrar recommended to me in the summer of 1982.

Mr. Peterson: When did you take the Seaway one to cabinet?

Hon. Mr. Elgie: I do not think I did, did I? That would come before my time.

Mr. Peterson: Who takes it to cabinet?

Hon. Mr. Elgie: I cannot recall whether I did that or whether it was done prior to my time.

Mr. Peterson: Who takes those?

Hon. Mr. Elgie: I take it to cabinet.

Mr. Peterson: Presumably you go to cabinet with a bunch of papers and say to your colleagues, "This company has applied to increase its capital."

Hon. Mr. Elgie: "And the registrar recommends it."

Mr. Peterson: "I have studied this matter and I know about it. These are good people and I urge my colleagues to support it." Presumably, they ask you questions about it.

Hon. Mr. Elgie: I am not going to get into this discussion. I take it to the cabinet on the recommendation of the registrar.

Mr. Cassidy: I presume though that in cabinet, if there is a recommendation from the minister and the registrar, it is basically a matter of form, is it not? It is a rubber stamp?

Hon. Mr. Elgie: Pretty well.

Mr. Peterson: The first one was February 1982.

Mr. Thompson: I am not sure. We will get that date for you.

Mr. Peterson: You took that to cabinet. You were the minister.

Hon. Mr. Elgie: I do not know what the date was.

Mr. Peterson: I am telling you. It was February 1982.

4:30 p.m.

Hon. Mr. Elgie: I know, but I was not appointed then. That is not the issue anyway.

Somebody took it to cabinet; it was either the previous minister or I and I am not going to debate who it was.

Mr. Peterson: At that point you thought it was in pretty good shape.

Hon. Mr. Elgie: At that point the registrar had deemed it was appropriate to allow an increase in the capital.

Mr. Peterson: Through the system of ministerial responsibility you are deemed to be knowledgeable about things he is knowledgeable about.

Hon. Mr. Elgie: I accept his advice, certainly. I do not always accept it but I usually accept it.

Mr. Peterson: In February 1982 you went to cabinet and got an increase in capital but you were not apprised of any problems in the company?

Hon. Mr. Elgie: There was a record provided to me by the registrar in which he recommended that the capitalization of the company be increased. I cannot recall whether I took that to cabinet or the previous minister did. I do not think it matters. A minister took it.

Mr. Peterson: When were you appointed?

Hon. Mr. Elgie: Some time in February.

Mr. Peterson: Anyway, some minister or other, Walker or yourself, took that to cabinet and no minister was apprised of any problems. You were apprised of problems the second time you took the application that year; in July, was it?

Hon. Mr. Elgie: In July.

Mr. Peterson: How did you present that? Did you say: "Gee, we have a problem here. We have to bail these guys out by increasing their capital."

Hon. Mr. Elgie: I asked the registrar to come to my office and we talked about it. I wanted his assurances that in his opinion this was an appropriate thing to do even though he had concerns. He said it was important that these people get more of their own capital into the company to increase their commitment and their involvement in the company. On the basis of that recommendation, I proceeded.

Mr. Peterson: Actually, I am sorry, I was wrong. That was September 2, 1982, just a couple of months before the House sat in September 1982, was it not?

Hon. Mr. Elgie: No, I cannot recall. That may have been the date the order was signed.

Mr. Peterson: Did you have any reservations at that time?

Hon. Mr. Elgie: Just to the point that I asked the registrar to come to my office again to verify, in the light of the other things we were talking about, whether or not he deemed this was appropriate. It was his advice that it was appropriate to get more capital from these people into the company. Is that correct, Murray?

Mr. Thompson: Yes.

Mr. Peterson: Did you ever go to cabinet and explain this thing to cabinet?

Mr. Thompson: Not these matters.

Mr. Peterson: The minister is your spokesman. You tell him your reservations, your arguments, presumably to put to his colleagues. You tell him everything you know?

Mr. Thompson: Yes.

Mr. Peterson: You did not tell him you were worried at that point?

Mr. Thompson: Yes, I worry about a lot of them. On the other hand, the company was going to become overborrowed. It had to go overborrowed simply by maintaining its deposits.

Mr. Peterson: You could have ordered them to flog off assets to maintain their position.

Mr. Thompson: No, I did not have the power to order them to flog off assets.

Mr. Peterson: I thought you had the power to get them to sell assets. You could rewrite assets and you could do whatever you wanted.

Mr. Thompson: No, I certainly could not.

Mr. Peterson: What powers did you have?

Mr. Thompson: Not at that time. Today I could have.

Mr. Peterson: What could you have done?

Mr. Thompson: Today I could put a cap on them. Today I could say, "You cannot exceed the capital limit."

Mr. Peterson: I am going to read the act to you. The act says you have the power to go in and you can rewrite the value of the assets. You have a whole bunch of things you can do. You had a big stick to wield over these people. If you were not satisfied about the asset-liability ratio you could have taken them over.

Mr. Cassidy: This is a pretty important question. When did you first start to look behind the pieces of paper in order to see whether or not there was a basis of value behind the major mortgages which had been issued, by Seaway in particular?

Mr. Thompson: As I have tried to set forth in the special report, that was the whole process which started in September 1982 of trying to put together—our real concern was that there was an interlocking, or there might be a group here.

We went through the whole course of trying to deal with the assets. Clearly we had to get a resource going and available there that could delve in it. We wanted a top financial person to look at the whole overview of the thing, but we also wanted an appraisal on certain assets. That whole process we tried to start into motion in September.

Remember, it was not just Seaway Trust, because Seaway Trust had Seaway Mortgage; so we had really both governments involved.

Mr. Cassidy: But when did you start to even look at any of the underlying mortgages or to look at the patterns? So many of the deals Seaway was involved in were in conjunction with Kilderkin; it would have been obvious when they were looking at what Kilderkin was worth that they were getting excessively or at least very substantially involved with one other company.

Mr. Thompson: With one company, yes.

Mr. Cassidy: When did you first become aware of the fact that Kilderkin and Seaway were in bed together in that sense?

Mr. Thompson: I am not saying anything about in bed together, but certainly we had great concern at that time, back in July—

Mr. Cassidy: Back in July.

Mr. Thompson: Yes; roughly about the fact that there seemed to be too much reliance. Putting it in its simplest terms, a more sound investment policy would not have been to put all your eggs in one basket. We had a feeling there was some tie-in and too much reliance on the capability of Kilderkin.

Mr. Cassidy: Did your examiners have the power to actually go and pick up, let us say, the 30 or 40 major mortgages which are in the portfolio of Seaway Trust and look at such indications of underlying value as recent market sales of those properties? I ask because in almost every case where there was a flip, there was a very substantial lower price registered in a market transaction immediately prior to the flip. These things do not grow on trees. One has to assume that if there had been a market price there was a willing vendor at prices far less than what was registered in the books.

Did you have the powers to look at those mortgages?

Mr. Thompson: To look at them? Yes, we did.

Mr. Cassidy: When did you begin?

Mr. Thompson: We were looking at the paper.

Mr. Cassidy: In looking at the paper though, did you have the power to look at the file Seaway had on each of those properties?

Mr. Thompson: Yes.

Mr. Cassidy: You did. Did those files not indicate such things as previous history of sales mechanisms?

Mr. Thompson: No. What the files should contain was a mortgage document that indicated that it was registered. It should contain a legal opinion by a lawyer certifying as to that registration and as to its priority on the title; and it should contain an evaluation of that property.

Mr. Peterson: It may be constructive to look to the law here, because I think this may add to this discussion. I think there is some wide difference of opinion between the minister and Mr. Thompson and ourselves about what he could do.

Section 150 and other sections do not give you the right but the duty to make an annual inspection, as you know, and you have the power to write those assets up or down.

Subsection 150(3) says, "The registrar shall make all necessary corrections in the annual statements made by the corporations herein provided and is at liberty to increase or diminish the assets or liabilities of the corporations to the true and correct amounts thereof as ascertained by him."

That is a tremendous power. You can singlehandedly alter the value of that balance sheet according to your discretion.

Section 193 says, "The registrar may request any corporation to dispose of and realize any of its investments . . ." You just said about five minutes ago that you did not have the power to force a corporation to sell its assets. You do.

Mr. Chairman: Supplementary.

Mr. Peterson: I just want to follow this, if I may, because I do not pretend to be an expert on the Loan and Trust Corporations Act, but it is obvious I know more about it than anybody else in the room.

Hon. Mr. Elgie: What humility.

Mr. Peterson: I said I did not know very much. I prefaced it by that.

"The registrar may request any corporation to dispose of and realize any of its investments

that are not authorized by this Act, and it shall within 60 days after receiving ..." blah, blah, blah; and then you can go on and sue the directors if they do not do it.

Did you ever request them to dispose of any of these overvalued mortgages?

4:40 p.m.

Mr. Thompson: No; but if I gave the implication that I did not know we could, let me go back on that. I thought I said, when we had been discussing London Loan, that the choice we had was to require disposal of certain mortgages or to allow them to keep them.

So I just want to correct that. If I have given the impression, and I hope I have not, that we did not or could not do that, then I apologize. I thought we had been through that.

Mr. Mitchell: A supplementary, Mr. Chairman: Mr. Peterson referred to subsection 150(3). Earlier Mr. Thompson had been telling us what was in the folder; i.e. an evaluation, I think he said, certified by the legal counsel for whoever?

Mr. Thompson: No, it would be a legal opinion.

Mr. Mitchell: Under the terms of what is required to be in those folders, does it indicate that there is a requirement for anything other than that certification that the value of the property is so?

Mr. Thompson: No.

Mr. Mitchell: So that, in fact, is a statement that is sworn and put into the file. I just want to be sure how this system works.

Mr. Thompson: Could you go back and swear it and put it in the file?

Mr. Mitchell: I am having difficulty with the question that Mr. Peterson asked. He said you had the right to raise or lower—

Hon. Mr. Elgie: Arbitrarily, he has to—

Mr. Mitchell: That is the whole point I am trying to get at here.

Mr. Breithaupt: But in the file you will not have a valuation opinion of the property. Likely, you will have a comment from a lawyer that it is a good and valid first charge.

Mr. Thompson: There is a valuation in the file; so putting it from the tactical point of view, you have to attack that valuation. You have to get evidence to attack it. Where do you get the evidence?

That is what we were doing up in Ottawa. We were trying to say: "How do we deal with this situation? What appraisals can we use?" We had

to get expert witnesses. We know that we are into a serious ball game on this thing.

Mr. Peterson: Presumably you could hire an appraiser and take that opinion against the other appraiser's opinion, if you suspect it was non-arm's-length or something like that; and then you could value it downwards to whatever extent you wanted to.

Mr. Mitchell: If I may interject: again, I am not a lawyer, but I suspect that the way the rules and regulations and everything are written it calls for that evaluation by the lawyer. Is that right?

Mr. Thompson: Not the lawyer; the lawyer gives the legal opinion as to the—

Mr. Mitchell: All right. Who provides that evaluation?

Mr. Thompson: An appraiser.

Mr. Breithaupt: That was the point I was trying to achieve.

Mr. Mitchell: So you are telling me that under your rules and regulations what is required in that folder is an appraiser's evaluation of that property?

Mr. Thompson: Yes.

Mr. Mitchell: Thank you.

Mr. Gillies: Just to follow on that point, there is not really a third party involved. If I own a property I can call in an appraiser and pay that appraiser to tell me what the appraised value of that property is.

Mr. Peterson: Mortgage companies generally make the client pay for an appraisal. Everybody recognizes that appraisals differ, depending on, frankly, who is paying for them and whether they want a high valuation or a low valuation. There is a difference of opinion in these kinds of things. I respect that. But when they are consistently wrong and/or fraudulent and/or self-serving and/or negligent, and that has become apparent, then the standards are starting to run on these properties.

Mr. Mitchell: But with respect, as a man learned in the law, Mr. Peterson, if you were involved in the sale of a property and you hired an appraiser to give the value, would you question that?

Mr. Peterson: Absolutely.

Mr. Mitchell: In every instance?

Mr. Peterson: Sure.

Mr. Mitchell: Interesting.

Mr. Peterson: When did you first get the idea that there were some funny appraisals in there?

Mr. Thompson: That is what we were doing in September, trying to establish a mechanism to handle this problem. The experience which we were sharing with the feds on that, because we were both involved with the various companies, had been that we were losing—they had lost the appraisal values; they could not find appraisals. We had suspicions, yes; but—

Mr. Peterson: But you did not even have appraisals on a lot of the properties. The books were such a mess—one of the things that was reported in the Star was that there were no appraisals to begin with.

Mr. Thompson: No, no; you are talking opinions on appraisals.

Mr. Cassidy: Perhaps I can put it this way. There is clear evidence, I think, that you were bamboozled by the Seaway group for more than a year; from the time that you first called Mr. Markle in up until the summer of 1982, about a year and a half.

Over much of that time it is clear that they were doing MURB deals and other deals on the basis of grossly inflated appraisals and appraisals which would certainly not be in the tradition of trust company management in Ontario—and, I trust, anywhere else either—because they were using this MURB approach rather than the standard and traditional means of appraisal.

At what point did you become aware that appraisers had suddenly gone hog wild and were coming in with appraisals that were worth one and a half to two times the normally accepted market values of those properties?

Mr. Thompson: I do not think I ever came to the conclusion that the appraisals were hog wild. Let us go back to the MURBs.

The MURBs were selling, people were buying; third parties were buying some of them. All right, there was a concern there on the method of charging some costs into it. If there was a market for them and people were buying them, you cannot just say the appraisers had gone wild on that sort of thing. I cannot buy that.

Hon. Mr. Elgie: In retrospect, we did not feel that the appraisal techniques were appropriate for the prudent lending institution. That is true, we have said so.

Mr. Cassidy: But at what point did you reach that conclusion? Once you reached the conclusion that it was not appropriate for prudent lending institutions, among other things, then, prudent action by the directors is required under the common law and becomes a question.

The thing is that when I have looked at some

of the documentation which has come out in the Morrison report and in the internal review it is quite clear that nobody is buying apartments in an open market in Sault Ste. Marie for more than \$100,000. That is nuts. They are not going to do it. Yet in May 1982 that is exactly the deal that was involved.

It would seem to me that if there was a certain amount of vigilance and curiosity there, Mr. Thompson, your people would have taken one of those deals, some time in late 1981 or early 1982, and gone to the bottom of it. Once you had explored one and found out what a tissue of fabrication it was, you could have just come crashing in on those companies, gone public with your monthly licence, and forced them to sue you to try to get a yearly certification, rather than caving in when they wrote a letter to you.

They would not have sued because they would have known that, once the matter became public, their house of cards would collapse because the word would go out in the financial community, the financial press would get hold of it and very quickly that would be game over.

Mr. Peterson: Did we establish when you first became concerned about the MURB valuations and the appraisals?

Mr. Thompson: Yes, we were concerned on the method of appraisal.

Mr. Peterson: When was that?

Mr. Thompson: That goes back into 1981; but, as I say, when you looked at those transactions you found people were buying.

Mr. Peterson: I will just read to you what it says in the special report of the registrar: "At the completion of the annual examination of Seaway Trust in late 1980—"

Hon. Mr. Elgie: What page are you reading?

Mr. Peterson: Page 4—"a number of concerns were identified, the most significant of which were documentation for a number of loans relating to Mr. Player with respect to MURBs and MURB valuations which relied on the inclusion of soft costs that had tax benefits for the purchaser which were used for mortgage finding purposes."

What is troubling me throughout the whole thing is that that special report says you knew in 1980 as a result of the annual report. So for two years we fool around with these guys.

I am really having trouble in this whole thing figuring out why judgement was not exercised differently than it was. That is what your internal report did not address, Dr. Elgie. You have never faced up to any kind of a reasonable

external review of this situation, an independent review.

4:50 p.m.

I think more than ever we need an independent look at this situation. This is terribly serious. Judgements were made by yourself, by the registrar, by your predecessors, that are just damaging in every single respect.

If you were in the private sector you would not have a job today, sir, with this kind of performance.

Hon. Mr. Elgie: That is a conclusion you have drawn, not a conclusion that I have drawn nor that my staff have drawn. I think the record shows a diligent effort by competent people, acting in traditional ways. It was not until the legislation of December 21 came into being that the authority to act in a more aggressive, investigative enforcement mode was possible.

Mr. Peterson: If your understanding of the act is that bad, no wonder you got into trouble.

Hon. Mr. Elgie: Clearly we have a different understanding of this.

Mr. Peterson: I will just read the words.

Hon. Mr. Elgie: I have read the words. You make it sound very simple, but—

Mr. Peterson: You make it sound very complex when it is not.

Hon. Mr. Elgie: —Mr. Thompson has already told you that you just cannot say that is wrong and write it down, you have to prove it. That is what he was about in his discussions with Canada Deposit Insurance Corp. and the feds, to get together a competent, large enough group of people—because you certainly know, from the Morrison inquiry and the efforts of the auditing firms that took over the companies, that it does not happen overnight. It takes a long period of time and requires a large number of people; and there will still be debates going on in the courts for months and years to come about the principle of valuation, and you know it.

Mr. Peterson: Dr. Elgie, my hardy little bunch of researchers, with no inside information, did as much as you did throughout the whole thing because we worked at it. I am just saying that with your unlimited resources and large staff and all the things you knew there is no excuse for your not being on top of it, absolutely no excuse.

I guess you will continue to defend and I will continue to never accept this incompetence without an external look at it. The whole effort

afterwards has been so self-serving in so many respects that I just think it is incredible, honestly.

Mr. Cassidy: I would just like, save prejudice, to look at the registrar's special report. The concern about MURB valuations and soft costs was raised in late 1980.

In August-September 1981 further concerns were identified, including the fact that Mr. Player, who had been identified by that time as being a shareholder of the Seaway Trust parent, had a significant proportion of the mortgage portfolio in properties that he managed. Arrears were excessively high, the documentation of appraisals was lacking. The company had overborrowed. Inadequate attention was being paid by Seaway to compliance.

In other words, you knew in September 1981, but it was not until October 1982 that you finally decided to analyse Seaway's mortgage portfolio; in other words, after a full year. What accounted for that whole year's delay, Mr. Registrar? Why so long?

Mr. Thompson: The overborrowing position was corrected. We had people in there continually. There was improvement in the record keeping and the documentation supporting the loans. There was improvement. We were simply trying to massage these people into a proper course of action.

Mr. Cassidy: I think kicking their butts would have been more appropriate.

Mr. Thompson: I think they got that, eventually.

Mr. Cassidy: But so did the taxpayer, Mr. Thompson, to the tune of \$300 million. In July 1982, according to your report, you say, "There existed a significant and real probability that depositors' funds were at risk due to lack of sufficient security."

It is fortunate for the depositors that they were insured. None the less, if you knew that, were you really justified in putting at risk \$300 million of public funds? That is what you lost the taxpayers. That is what you lost the taxpayers, Mr. Thompson, in conjunction with your minister and your ministry.

Mr. Thompson: I hear you.

Mr. Cassidy: Was it really appropriate to let the thing go on for another three or four months at that time?

Mr. Thompson: How would you stop it?

Mr. Cassidy: I have already suggested how.

Mr. Thompson: You are saying, "You should have stopped it." What would you have done?

Mr. Cassidy: If you felt you lacked the powers—

Mr. Crosbie: Mr. Cassidy?

Mr. Cassidy: Yes, Mr. Crosbie?

Mr. Crosbie: We discussed this a little bit the other day.

In all fairness to the situation, I think there is a significant difference between approaching the regulation of a company after it has been established that there is a problem, the problems have been labelled, and going in before. Where they have done something that you are now convinced may be irregular, it may even be criminal, you can go in and say there is something they did and you have identified it as an irregular act and you should close them down.

If, in 1980, the registrar or anybody else had formed the opinion that Mr. Markle or anyone else was going to carry out the type of transactions that have now been established, your attitude would be quite different.

Consider that you are sitting there as a regulator, and you are being asked to shut down the operation of a large company. Now I know the other side of the risk is that of taking in deposits from the public, and you do not want to put the public at risk. At the same time, shutting down a deposit-taking organization which derives its whole vitality out of being able to carry on business is not the same as shutting down a company that is sitting there with a large set of assets, such as an ongoing factory. This company's income is derived from processing money, and if you shut down the processing of money you guarantee the failure of the company.

That is the type of decision the registrar has to make when he looks at a company. I think, with hindsight, you can look at a decision and say, "You should not have done it," but I would just like you to look at Dominion Trust.

When the Dominion Trust issue first came up it would have been very easy, particularly in the mood we were in, to say, "Liquidate that company." Probably we would have broken even, maybe. Certainly, the investors in that company would not have got any money out of it and there might have been a loss that the Canada Deposit Insurance Corp. would have had to pick up. Instead, the registrar takes a calculated risk, "Can we somehow keep this company going, keep it under control, and perhaps bring in new management?"

Now you have the same problem in Seaway. In hindsight, you can say, "Yes, had you realized

where you were headed you would have shut this company down sooner."

We were working with the federal government on this. They had valuers going in. They had their own appraisers going in and testing Seaway mortgage investments. But they were unable to establish to their satisfaction that there was a scam under way at that time.

We were exchanging this information with them and the decision was made that: "Yes, we have concerns here, and if we are going to get to the bottom of them we are going to have to put a team together. We are going to have to look at this in a much broader sense and see what we can determine." That is what was under way in the late summer or early fall of 1982.

Then the transactions took place, the flips, and it was all replaced by the Morrison report.

So when you make these accusations of negligence and incompetence and all that, put yourself in the position of a regulator saying: "We are going to shut down that company. We are going to take away its licence. We are not going to allow it to carry on business."

Ask yourself whether you would be quite as fast to do it, if you had that responsibility. You are going to put people out of work. Think of the hue and cry that went up in the House when we shut down Kilderkin Investments Ltd., about these poor unemployed people. We put a receiver in there and there was an awful lot of sympathy for those people put out of work.

That is the sort of decision you are saying the registrar should—

Mr. Cassidy: In defending Mr. Thompson's decision—I do not know if you were involved in those decisions or not. Perhaps I should ask when you were first made aware of the registrar's concerns about Seaway or Greymac Trust?

Mr. Crosbie: Certainly in the summer of 1982 I took part in the discussions the minister mentioned earlier.

Mr. Cassidy: I see.

Mr. Crosbie: If there was any specific mention prior to that I cannot say now, but I think we certainly were discussing this issue and how we come to grips with dealing with valuation problems where there are appraisals on file.

I was aware of our discussions with the federal government in trying to put together a team, because there are four companies as you know here, in Seaway and Greymac.

Mr. Cassidy: Perhaps I can ask a management question. Does Mr. Thompson, as registrar and commissioner of financial institutions, report

directly to you or through an assistant deputy minister?

Mr. Crosbie: He reports directly to me.

Mr. Cassidy: You are telling us, then, that from late 1980 up until July 1982, a period of some 18 to 20 months, that the reporting relationship between you and the commissioner, in a very important area of regulated business, was so distant that over all of that time there was no communication of the concerns reflected here in any way?

Mr. Crosbie: No, I am not saying that at all.

Mr. Cassidy: That is what I heard you say.

Mr. Crosbie: No, you did not.

Mr. Cassidy: I cannot recall exactly when you took over the deputy minister's chair.

Mr. Crosbie: I was certainly there through all of 1980.

Mr. Cassidy: Okay.

5 p.m.

Mr. Crosbie: What I said was that I cannot recall when I first heard. This did not start off with a trumpet blast of concern. We did not start off with the flips and work backwards, which is what you are doing. We started off with Seaway acquiring a company and causing problems.

I cannot tell you in detail now what information, but I know that from time to time the registrar and I had discussions about this. The problem continued to grow.

Mr. Cassidy: But nothing of an urgent, red flag nature, to the point where you can recall actually discussing it with the registrar prior to the summer of 1982?

Mr. Crosbie: At this point, I cannot say that I can think of a conversation prior to that.

Mr. Cassidy: I am going to have to say that this is a management question for which the government is ultimately going to be responsible, not just you. If the government is not ensuring that the management function is being carried out any better than that, if supervision at senior levels of the government is so lax—and I have to say it is lax—it is no wonder we got into trouble. There is a shared responsibility in a sense.

What the devil did you talk about? It sounds to me as though you must have simply passed the time of day, Mr. Thompson assured you everything was okay and that was the end of it.

Mr. Crosbie: No, I think that is an unfair characterization of what has been said here today, I really do.

Mr. Peterson: Who were you dealing with? Who was your contact?

Mr. Gillies: You can sit back right now and say that a certain signal was urgent, or that there was a red flag. I can fully appreciate the point Mr. Crosbie is making. He had to balance his regulatory power between the ongoing operation of a large company and a very drastic government action in moving in and taking the assets. I can fully understand him looking at it 18 months ago and seeing signals, but reaching a certain point before they felt it was time to—

Mr. Peterson: No one else can. If you look at all the reports on this thing, which we read very carefully—and there is no one else; there isn't anybody who, with hindsight, does not see that terrible mistakes were made.

The measure of whether you are a big boy in this world is if you are right or if you are wrong. With hindsight, if you are wrong, then you get into trouble. You get paid to have foresight in this business. Who were you dealing with? I want to know.

Mr. Crosbie: Can I just comment, because I think you made a fair statement there: with hindsight, you would not do that. Let us not forget there were two sister companies, let us put it that way, Seaway Mortgage and Greymac Mortgage. They were regulated by the federal government. The feds took no action any different from what we did. In fact, Ontario was in first.

They followed our action when we took over the companies. They were faced with the same decision-making process as we were. They were having the same problems we were. I suppose what you are saying is that if you conclude we were terribly negligent, then I suppose the federal government was terribly negligent.

I would like to suggest to you that, rather than negligence, it is a reflection of the difficulty you face in making these types of judgement calls, of winding up companies and taking away businesses.

Mr. Cassidy: But over that time of 18 or 20 months, the question of whether such action should be taken, whether the registrar should take action which would make the matter public, or in other ways jeopardize the ability of Seaway—to take that particular example—to continue in business, was never put on your plate or on the minister's plate as something that should even be considered.

Mr. Crosbie: Once again, I say this is the hindsight you have. Now you can say that if we had known in the summer of 1982 what would

happen in the fall of 1982, we could have taken that action.

Just as I discussed earlier with regard to Dominion Trust, as you see from time to time, we were not being met with the company refusing to do anything. I think they always put a good face on their efforts.

The very paragraph you read at the bottom of page 4, where you say there is a concern about multiple-unit residential buildings, goes on to say: "There were ongoing discussions with the company to deal with the concerns expressed during January, February and March 1981, and although some attempt to improve procedures and accommodation was evident the company was put on a three-month registry in June 1981."

The point I make in that paragraph is that there was evidence of improvement. There was not a total ignoring of our efforts to improve the company. Really, the question you have to ask—and that Mr. Peterson, in fairness, is asking—is that at what point in time do you say enough is enough?

Mr. Peterson: Any time, because it has that phenomenal growth record; Seaway, in terms of assets from them—I am just going by memory: \$1.5 million in 1978 to \$300 million in 1982, something like that.

Mr. Cassidy: No, it was \$1.25 million.

Mr. Peterson: I do not know, something in that range. I just forget—

Interjections.

Mr. Peterson: You know, any prudent regulator, overseer or director would have asked some fundamental questions. That is just such a large signal.

Mr. Crosbie, I happen to be in business, and I happen to understand some of the problems in doing these kinds of things. I say to you, sir, that any prudent regulator, given all these signals, would have asked some questions.

I want to ask you a question. Who were you dealing with at Seaway? Who was your contact?

Mr. Thompson: Andy Markle and a fellow called Braun.

Mr. Peterson: Who were you dealing with at Greymac?

Mr. Thompson: At Greymac, Wexler.

Mr. Cassidy: How often did you meet Markle?

Mr. Peterson: Time is running out. Can I just finish, Mike? It is pretty tough to go two ways on this thing. I do not want to hog all the time, but

we just lose the thread of this whole discussion if we cannot follow it up.

Did Mr. Clement deal with you at all?

Mr. Thompson: No. He did not deal with me.

Mr. Peterson: Did he deal with you in the Crown situation at all?

Mr. Thompson: No. I think he came in once. He met with Harry Terhune in my office. I did not meet him.

Mr. Peterson: Was he paid as counsel to them, or just as a director?

Mr. Thompson: I have no idea. He was a director. I do not know how he was paid.

Mr. Peterson: What about Mr. Randall?

Mr. Thompson: I never saw Mr. Randall.

Mr. Peterson: Were these guys in contact with you at all with respect to their licences?

Hon. Mr. Elgie: No.

Mr. Crosbie: I had no contact with them either.

Mr. Peterson: He hastens to point out.

Interjections.

Mr. Peterson: So you did not deal with Mr. Rosenberg at all in the Greymac situation?

Mr. Thompson: I only met Mr. Rosenberg once in my life.

Mr. Peterson: Did you enjoy it?

Mr. Gillies: What is he really like?

Mr. Thompson: I would rather not answer.

Mr. Peterson: When did you meet with him?

Mr. Thompson: At the Premier's dinner. I only met him in the corridor, I think, or in the hallway one day. The only person I ever talked to at Greymac was Lyon Wexler.

Mr. Peterson: There was a problem with the licensing of Greymac. They were on a monthly licence. Then you let them go in October, as I recall. Was that back to a six-month licence or a yearly licence?

Mr. Thompson: The balance of the year. That was about seven months.

Mr. Peterson: Why did you change your mind on Greymac at that point?

Mr. Thompson: Because they challenged the authority. However, there was a quid pro quo. There was an agreement made.

Mr. Peterson: I saw that agreement.

Mr. Thompson: Yes.

Mr. Peterson: There was also a letter to them

from Terhune which was sent back saying, "Yes, we agree to all this stuff."

Mr. Thompson: Yes, that is right.

Mr. Peterson: And it did not happen?

Mr. Thompson: Not fast enough.

Mr. Peterson: That is the normal way of doing those things, is it?

Mr. Thompson: Yes, in the sense that it recorded the concern, identified it and required the compliance and agreement of the other side.

Mr. Peterson: Did Mr. Wexler threaten to sue you?

Mr. Thompson: I do not think he has yet.

Mr. Peterson: No. Did he—over the licence, over the need for the monthly licence?

Mr. Thompson: No, I do not believe he did.

Mr. Peterson: Then how did they challenge your authority?

Mr. Thompson: I did not deal with that one.

Mr. Peterson: Who did?

Mr. Thompson: Mr. Terhune did.

Mr. Peterson: Do you know about it, Mr. Crosbie?

Mr. Crosbie: No, I do not.

Mr. Peterson: Is Mr. Terhune in the room?

Mr. Thompson: Yes.

Mr. Peterson: Well, let us get him up here.

Mr. Chairman: Mr. Harry Terhune.

Mr. Peterson: Mr. Terhune, did you make the decision to go back to a yearly licence for Greymac—I am sorry, to extend the licence to the end of October?

Mr. Terhune: To extend the licence, yes.

Mr. Peterson: Did you check with anyone else on that?

Mr. Terhune: I would have checked with Mr. Thompson.

Mr. Peterson: And not with the deputy minister?

Mr. Terhune: Not myself, no.

Mr. Peterson: What prompted you to make that judgement?

Mr. Terhune: Basically, the company pointed out that we did not have the authority to put them on a monthly licence.

5:10 p.m.

Mr. Peterson: Did you think you had the authority prior to that?

Mr. Terhune: No, I did not.

Mr. Peterson: You knew you did not have the authority. But you recommended to whom, to

have the company put on a monthly licence? Was this just sort of to smarten them up a little bit?

Mr. Terhune: Yes. That has been used effectively on occasion.

Mr. Peterson: So you recommended the government exceed its authority and put them on a monthly licence. When was that decision made? Was that in the spring?

Mr. Terhune: I am sorry. I do not recall precisely when the—

Mr. Peterson: How many monthly renewals were there? You do not recall that?

Mr. Terhune: No, I do not.

Mr. Peterson: So then what happened?

Mr. Terhune: It would have occurred, sir, on the annual anniversary of the licence.

Mr. Peterson: What prompted you to use powers illegally to put them on a monthly licence from the former yearly licence?

Mr. Terhune: I would have to think of just when we did that. Assuming it started on July 1, 1982, there were a number of general concerns with the company and—

Mr. Peterson: Just general; or specific ones?

Mr. Terhune: They were likely specific at the time.

Mr. Peterson: What were they?

Mr. Terhune: Without the files—I am sorry, I am not trying to be evasive, I just do not remember precisely what.

Mr. Peterson: And whom were you dealing with at that point?

Mr. Terhune: I believe all the dealings with Greymac were with Mr. Wexler.

Mr. Peterson: So again, what happened to make you change your mind at the end of October?

Mr. Terhune: There were two aspects: first, we were challenged as to whether or not we had the authority—

Mr. Peterson: Of what form was this challenge?

Mr. Terhune: Strictly verbal.

Mr. Peterson: He said what to you?

Mr. Terhune: I cannot honestly recall whether he said anything more than, "I know you do not have the authority to do this," or, "In my opinion you do not have the authority to do it."

Mr. Peterson: And he stared you down with that comment?

Mr. Terhune: To my knowledge there was no threat, if you want to put it that way.

Mr. Peterson: So did you, at that point, discuss it with Mr. Thompson or Mr. Crosbie?

Mr. Terhune: I would have discussed it with Mr. Thompson, not with Mr. Crosbie.

Mr. Peterson: Were you worried about a court challenge? Or what were you worried about?

Mr. Terhune: I do not think I was particularly worried. A monthly licence really does not have a great deal of effect other than perhaps influencing the company to change its course of action.

It is more a moral effect than anything else. We were after the company to correct certain infractions and certain problems which were set out in the letter that you referred to. They were agreeable to making an undertaking to correct these. It seemed a reasonable thing to do to try to get the matters corrected—to put them back on the regular licence.

Mr. Peterson: Did you get any wind of the big flip coming up?

Mr. Terhune: At that point?

Mr. Peterson: Yes.

Mr. Terhune: Absolutely not.

Mr. Peterson: So in about six or seven days they put that together.

Mr. Terhune: I do not think they—in hindsight, no, they did not put it together in six or seven days.

Mr. Peterson: Or you did not know about it, in any event.

Mr. Terhune: No.

Mr. Peterson: Do you think you would have been sued by them? Or what do you think Mr. Wexler or Mr. Rosenberg would have done on it?

Mr. Terhune: I really had not given it any thought, and I did not give it any thought at that time as to whether I would be sued; it was not a matter of concern.

Mr. Peterson: Did you get any other pressure to change the licensing?

Mr. Terhune: No.

Mr. Peterson: So it was just Mr. Wexler saying, "I know you do not have the authority;" and you saying, "Yes, you are right, so we will change it." Right?

Mr. Terhune: As I say, the other side of the agreement was that they would correct the

matters we were concerned about and would give us an undertaking to that effect. It was not—

Mr. Breithaupt: That was the undertaking that was given?

Mr. Terhune: Yes.

Mr. Breithaupt: But in fact the matters were not attended to?

Mr. Terhune: Certainly they were not all cleared up before everything else took place.

Mr. Peterson: How do you feel about that in hindsight?

Mr. Terhune: About extending the licences?

Mr. Peterson: Yes.

Mr. Terhune: I do not think it would have made one iota of difference whether it was kept on a monthly basis, or if it ever was.

Mr. Peterson: In hindsight, do you think you should have moved in?

Mr. Terhune: In hindsight, we should have done all sorts of things, I suppose, but unfortunately we are not blessed with hindsight at the time; it is something we get later on.

Mr. Peterson: When were you first aware of all these problems at Greymac? That is your specific responsibility, I gather.

Mr. Terhune: Again I apologize for not remembering the exact dates, but it goes back a year or so. I think it is set out quite accurately in the registrar's response.

Mr. Peterson: Did you at any time suggest melodramatic action?

Mr. Terhune: When that was taken?

Mr. Peterson: Yes.

Mr. Terhune: No, I did not.

Mr. Peterson: When you asked Mr. Wexler to do something, was he forthcoming? What was the relationship?

Mr. Terhune: As a general rule? I would say that over the years he had indicated a fair degree of being co-operative.

Mr. Peterson: You felt they were going to honour their commitment.

Mr. Terhune: I thought there was a reasonable chance they would. I think that in this business you never really completely expect that anyone will do everything he says he is going to do.

Mr. Peterson: Is there a parallel? Do you have that same kind of relationship with other trust companies? Are they all the same?

Mr. Terhune: In what respect?

Mr. Peterson: Well, this business of sort of hoping they will do what they are told to, but not necessarily; and not having a lot of expectation they will comply with the law as you see it.

Mr. Terhune: Fortunately, it is a rarity. Most companies, when they make a commitment, stick to it.

Mr. Peterson: So what we have in Greymac is a case that was unlike other cases for you. Did you handle the Crown—oh, I am sorry, did you handle the Seaway Trust case, too?

Mr. Terhune: I was involved with Seaway as well.

Mr. Peterson: Are you telling me these are the only two bad apples you had in terms of complying with orders and things?

Mr. Terhune: No, I am not telling you that. I am saying that as a rule, when most of the companies and the people in them make a commitment they live up to it.

Mr. Peterson: But these two did not. Because you have a long history and experience of dealing with these kinds of things, and knowing the people, obviously, when did you form the conclusion that these people would not necessarily live up to their commitments?

Mr. Terhune: That is an interesting question. The time span here is very short between the point when they made the commitment and when the ultimate decision was taken to take over the companies. I suppose the apartment flip was an indication that things were not likely to proceed as they had been committed.

Mr. Crosbie: Mr. Peterson, if I may, Mr. Terhune said just a few moments ago that the conditions—the letter, I believe, was September 1982?

Mr. Terhune: No, it was late October, I believe.

Mr. Crosbie: It was in October 1982 that you had some reasonable expectations—I forget the exact words, but at that time—

Mr. Peterson: I think he is doing quite well on his own, Mr. Crosbie.

Mr. Crosbie: Well, I know. I just think the question was answered and it was rephrased, and I just did not want him inadvertently to walk into something that was—I am sure you were not attempting to trap him, but the question was asked and answered.

5:20 p.m.

Mr. Peterson: No; I resent that. And I am sure

you are not trying to bail him out of a situation he is getting you into.

Now that you have had time to get some oxygen—it is an old corporate trick—go for air if you do not know what to do. I am just trying to figure out the nature of this relationship and how you work with these companies and on what basis you extend your trust to them or get tough with them. Can you shed any more light on that for me?

Mr. Terhune: I do not think I can because I really do not quite know what your question is.

Mr. Peterson: I had a very good line of questioning going before Mr. Crosbie came to your rescue. He was worried that you were going to say something that would embarrass the minister.

Hon. Mr. Elgie: But a good counsellor never loses his train of thought.

Mr. Peterson: When you are dealing with rag puckers or puck ragers or whatever you are—

Hon. Mr. Elgie: As long as we have scandal-mongers, that is the main thing.

Mr. Peterson: You have been doing this for months now. You have got your act down pretty good in terms of pushing the authority around. No one knows who is ultimately responsible for what has transpired.

Interjections.

Mr. Peterson: Let me change the subject. What is happening with the apartment buildings?

Hon. Mr. Elgie: They are being managed by Maysfield, the receiver.

Mr. Peterson: Who owns them?

Hon. Mr. Elgie: I guess that is a matter that will ultimately have to be determined by the courts.

There are a number of views. One of the rights that has been preserved in the action we have commenced is the right to ask for the power of sale or closure. In that case, it would be settled if that route of action were taken. Then one can speculate in the absence of any legal determination about just who the owners are. Certainly there are 50 numbered companies that are now named companies which are registered on the titles.

Mr. Peterson: Have you identified those people?

Hon. Mr. Elgie: No.

Mr. Peterson: At this point, you still are not

able to put a name to any of those numbered companies?

Hon. Mr. Elgie: No.

Mr. Peterson: Have you tried to?

Hon. Mr. Elgie: What does that mean?

Mr. Peterson: Have you made any attempt to communicate with at least the owners who are on file?

Hon. Mr. Elgie: Mr. Qutub offered to take Mr. Morrison to Jedda if he would guarantee a cloak of secrecy with respect to the people he met and their positions and so forth. Mr. Morrison did not feel fit to accept that offer.

Also, there certainly were suggestions that some information might be available so long as no names were ever revealed and no identities ever made known to anybody. But I do not think that is the kind of information that would be of any use to anybody, do you?

Mr. Peterson: Do you think they exist?

Hon. Mr. Elgie: I have no opinion on that.

Mr. Peterson: Do you, Mr. Crosbie?

Mr. Crosbie: I think it is interesting. I have not read the transcript. I just read the account in the press the other day when Mr. Player was questioned about this. The question was put to him and he said he did not know who the investors were. He said then if the companies failed, to realize on this claim against them, he would not know whom to turn to. He said that was right; he did not know who they were.

Mr. Peterson: To this point has anyone appeared in court on behalf of these numbered companies? Do they have counsel?

Hon. Mr. Elgie: Not to my knowledge. There certainly has been no appearance in the Cayman Islands.

Mr. Peterson: So—

Hon. Mr. Elgie: It is a unique situation. Is that what you were about to say?

Mr. Crosbie: There is a possibility that there is nobody.

Mr. Peterson: Presumably, somebody owns those numbered companies. There are names on file.

Mr. Crosbie: The qualifying officers—

Mr. Peterson: Who are the qualifying officers?

Mr. Crosbie: Mr. Desmarais is the only officer who appears on all 50 companies. He is the signing officer—

Mr. Peterson: Has he been to court yet to testify as to whom he is the agent for?

Mr. Crosbie: No, I am not aware of any court appearance.

Mr. Peterson: And in your investigations you have made no attempt to track down these people who may or may not own the buildings?

Hon. Mr. Elgie: I do not think that is a very fair statement. As I said, there have been offers or suggestions that if anyone wishes to go to Jedda to meet them under a cloak of secrecy, such an occasion could be arranged. But I am not prepared to accept anything on those terms.

Mr. Peterson: Have you talked to Mr. Qutub?

Hon. Mr. Elgie: Mr. Morrison met with Mr. Qutub. Representatives of the trust companies have met with Mr. Qutub on several occasions. I have not been present at those meetings and neither has any of my staff. Mr. Richardson from Woods Gordon and counsel have met with Mr. Qutub.

Mr. Thompson: May I also say that in this total package there were 500 companies involved—not just in the Cadillac deal.

Mr. Peterson: Presumably, you desire to get at the truth of this whole matter somehow or other. How do you expect to do that? Just through endless litigation?

Hon. Mr. Elgie: I would like to know if there is an easier way to do it, as there have been examinations taking place before the special examiner now for many months. Mr. Biddell was before him for some three months, I believe. Mr. Rosenberg has been before a special examiner and Mr. Player is there now. I think that is the kind of judicial process we have in this country to resolve these issues.

Mr. Peterson: What you are telling me is that you want the courts to resolve all of this.

Hon. Mr. Elgie: I have not had the lengthy experience as a counsel on business that you have, but I would suggest that there are not many alternatives.

Mr. Peterson: There is certainly the alternative of an independent inquiry that has the power of subpoena.

Hon. Mr. Elgie: We have said on many occasions that we have accomplished more in nine months than any royal commission or inquiry could have accomplished in four years. The process is in place in the courts, and I suggest that we will find out the information that we deem to be important in an equally short period of time.

Mr. Peterson: Are you launching law suits against any of the directors?

Hon. Mr. Elgie: I cannot recall who all are named, but it is all listed. I cannot recall who the named parties are.

I do not know if any determination with respect to parties to be named is added from time to time. Those decisions are always being reviewed, and when it is deemed appropriate on the advice of counsel, then, yes.

Mr. Peterson: Perhaps you could bring me up to date. Are the directors being sued?

Mr. Thompson: I believe some of them are. I do not know whether I can even talk about litigation, but I will tell you anyway. The process is just what is going on: the continual examinations for discovery, trying to elicit facts. Then, if necessary, consideration will be given to adding other parties to it.

Remember, Mr. Morrison had the powers of a commissioner under the Public Inquiries Act. He examined many of the parties under oath and with very good counsel. They had a counsel, and he came to a dead end in a lot of things. I do not know of any better process than simply relying on the court system and good counsel.

Mr. Peterson: The whole thing is hitting a dead end. That is the problem. These are huge questions. You are the responsible minister, and bureaucrats do not know the answers to them. It is a year after the fact now and presumably you do not have a tremendous—

Hon. Mr. Elgie: In all fairness, I would suggest to you, for instance, that information has been obtained from the Cayman Islands, which, by the way, I feel badly about from the point of view of relations with the government. They feel we have breached their secrecy laws.

However, I would submit to you that information has been obtained with respect to the nature of the bank accounts and the transactions down there that would not have been available any other way. So there has been a considerable amount of information obtained.

Again, I regret that the Cayman Islands government feels there was anything inappropriate about it, but the advice of counsel given to Woods Gordon was that they were acting appropriately.

Mr. Peterson: You regret causing an international incident, as you personally have, because of—

Hon. Mr. Elgie: Fortunately, the Bank of Nova Scotia, I think, or the Canadian Imperial Bank of Commerce, has caused an incident which has just overclouded that one so much that—

Mr. Peterson: Do you feel, through this process, that we are ultimately going to get at the truth?

Hon. Mr. Elgie: Yes, I do.

Mr. Peterson: And, of course, the government has the capacity because it has unlimited funds to grind anybody down in the process.

Hon. Mr. Elgie: If that is the way you look at it. I am always prepared to listen to your views, even though I do not agree with them.

Mr. Peterson: How much have you spent on this? What is your total bill on this so far?

Hon. Mr. Elgie: Mr. Crosbie, do you have the total bill, or up until the end of October?

Mr. Crosbie: Until the end of October, we have paid out about \$12.5 million.

Mr. Peterson: That is \$12.5 million in what? Special fees to—

Mr. Crosbie: All costs. That does not include the civil servants' salaries. It is for third parties.

Mr. Peterson: That includes lawyers and accountants.

5:30 p.m.

Mr. Crosbie: Yes. The Morrison report, for example, the counsel, the cost of taking possession and control over the companies and setting up their accounts

Mr. Breithaupt: As I recall, we were going to be provided with at least a general summary—

Mr. Crosbie: Yes, we can provide you with a summary.

Mr. Breithaupt: —of who have received a variety of funds, just in gross, so we can have an idea of what has happened.

Mr. Crosbie: Oh, yes.

Hon. Mr. Elgie: I would remind you that what the ultimate costs will be will depend on what happens in a number of elections.

Mr. Breithaupt: Of course, yes.

Hon. Mr. Elgie: The Morrison report, as you know, will be a 50 per cent paper recovery. There were some cost recoveries in the Cayman Islands. Hopefully, there will be some recoveries in other areas. Of course, a significant proportion of the possession, control and rehabilitation cost will be levied on the industry.

Mr. Crosbie: There is a significant cost, too, associated with the action that has been brought to the rescission of the mortgages. If we are successful in that action, we will hopefully recover some significant portion of the \$152 million.

Mr. Breithaupt: Indeed, the list that you do provide us with could well have those additional comments upon it, showing that the expectation is of certain opportunities for recovery.

Mr. Crosbie: I might mention that there is a list of the litigation at the back of the registrar's special report. In describing the litigation, it sets out basically what we are attempting to do.

Mr. Breithaupt: Yes, I am aware of that. It was a matter of getting some further details, if they could at least be in a ball-park figure generally available to us as to how those funds have been paid and to whom.

Mr. Crosbie: No problem.

Mr. O'Neil: You said that you have paid out so much and so much is yet to be paid. What do you estimate you are going to have to pay in the next while?

Hon. Mr. Elgie: The bulk of that, of course, would have been in those early days of prevention and control. Do you have any estimates on future costs? I just do not know that.

Mr. Crosbie: I know there will probably be another \$3 million in the balance of this year at least.

Mr. Breithaupt: So you are looking at \$15 million, shall we say, to the end of 1983, as a clear expenditure—

Hon. Mr. Elgie: At least—

Mr. Breithaupt: —with some hope of recovering that. However, that is basically the upfront money the people of Ontario have to deal with right now.

Mr. Peterson: What do you think your other people have had to put into this thing with private sector bills in this whole matter? Everybody is getting sued.

Hon. Mr. Elgie: I have no estimate on that.

Interjection: It would at least be comparable.

Mr. Peterson: Is Mr. Macdonald still your lead counsel on this?

Hon. Mr. Elgie: Yes.

Mr. Peterson: How much do you pay him? What do you pay him?

Hon. Mr. Elgie: When we retained the Turner-Macdonald firm—

Mr. Peterson: McMillan Binch.

Hon. Mr. Elgie: McMillan Binch. I forgot. You do not like the name Turner in there. It was agreed that—

Interjection.

Mr. Peterson: If you know as little about trust companies as you do about law firms, no wonder we are in deep trouble.

Hon. Mr. Elgie: They took it to their partnership and proposed what they saw as a reasonable account. It was agreed that they would be evaluated by someone outside in terms of whether they were commercial rates that a government should be paying in the particular circumstances. John Robinette will be reviewing those accounts and making that determination.

Mr. Breithaupt: We expect the range might well be about \$800 a day if nothing else.

Hon. Mr. Elgie: I think Mr. Macdonald has agreed to \$125 an hour. But the fee, as proposed, could range anywhere from the mid \$50s or \$60s up to \$190 for the senior counsel. Those are accounts that will be evaluated by Mr. Robinette.

Mr. Peterson: You have hired a lawyer to review the legal bills. Would you consider hiring an accountant to review the lawyer who reviews the legal bills?

Hon. Mr. Elgie: When Mr. Turner comes in to see Mr. Crosbie tomorrow, perhaps he can propose that to him.

Mr. Peterson: I think we should get more in on this thing. Everybody else is on the job around here. Why not get some more people involved?

Mr. Breithaupt: Perhaps Campbell Grant could review the whole thing. The Premier could call upon him. You never know.

Mr. Gillies: Think how many more we could put to work on a royal commission.

Mr. Peterson: There is no doubt that this is going to be in the court for years and years and years. The odds of cost recovery are minimal, I would suggest. You may disagree with me.

You were arguing that you have done this with dispatch and moved very quickly, but you know and I know that it can drag on forever, dependent only on the government's capacity to wear down its adversaries. I guess governments have unlimited moneys; the adversaries apparently do not.

Hon. Mr. Elgie: There are no such instructions to counsel.

Mr. Peterson: I ask you to understand the realities of the situation. Would you not agree?

Hon. Mr. Elgie: I have no estimate of the time. They are carrying on the examinations for discovery at the present time.

Mr. Peterson: I just put it to you one more time, why would you not think it would be fair, because there are so many still unanswered questions, to have someone charged with the responsibility of determining all of that together? Why would that not make you more credible?

Hon. Mr. Elgie: I have no problem in thinking I am very credible now.

I look back on those early days and remember when you said we would never know about Kilderkin, we would never know about the Cayman Islands, we would never know about Kincorp and we would never know about some others. But we do know. The receivers' reports are there and Morrison's report is there. We have gathered an incredible amount of information in a very short period of time.

Mr. Peterson: And you do not know who owns the building.

Hon. Mr. Elgie: Those are matters that will be determined, and you know that.

Mr. Peterson: I have absolutely no guarantee of that or what period of time that will take or anything else. You are the first one who admitted there are unanswered questions in this whole thing. There are so many areas that have fallen between the cracks.

Hon. Mr. Elgie: I suggest there are not areas falling between the cracks. A review of the material indicates that all aspects are being explored or have been already.

Mr. Crosbie: If I could comment on the ownership of companies, the important thing is that they are not in a position to influence the assets they are purporting to own. They have been put under receivership and under control of the courts. Regardless of who owns those companies, they are not in a position to dissipate the assets or cause further losses.

Mr. Peterson: But the government is in a position to dissipate those assets or cause further losses.

Mr. Crosbie: I would not call it dissipate.

Hon. Mr. Elgie: They are acting on orders of the court. Are you saying the court is in collusion or what? What is your suggestion?

Mr. Peterson: I am suggesting that I do not think you have demonstrated any more competence than anybody else in this whole matter, and—

Hon. Mr. Elgie: As a leading counsel or whatever you are, I will give that the consideration it deserves.

Mr. Peterson: You have consistently resisted any independent look at the situation.

Hon. Mr. Elgie: Far from that, I think we have been aggressively searching for independent information. I think to suggest otherwise is not to understand what has gone on.

Mr. Peterson: I have not read the new book that is out but I read the review in Orland French's column the other day, and that is exactly the thesis we have put forward for a considerable length of time.

Hon. Mr. Elgie: So then you stand behind the book, do you?

Mr. Peterson: I do not know. I have not read the book; have you read it?

Hon. Mr. Elgie: I did not make the statement; you did.

Mr. Peterson: Have you read the book?

Hon. Mr. Elgie: I did not make the statement about the book.

Mr. Peterson: The thesis as articulated in that column is exactly my view and has been for some long period of time. The thesis is that this is the greatest regulatory failure in the history of this province, perhaps even in all of Canada. The thesis is that there were many warning signals that should have been caught and then there were a tremendous series of overreactions that were not particularly well executed at the time.

Your full thesis is that one forgets about the first part of it and then says, "Were we not clever and adroit the way we handled this situation that was allowed to develop?"

Hon. Mr. Elgie: I never claimed adroitness, just courage.

Mr. Gillies: The other version can certainly sell a lot more books.

Mr. Peterson: We will wait and see what other books will come out. You have made the publishers rich, the lawyers rich, the accountants rich, and you have impoverished the taxpayers. That is what you have done as the bottom line on this thing.

Hon. Mr. Elgie: You are suggesting we should not have taken the actions we did?

Mr. Peterson: I am suggesting the Crown Trust Company Act that you brought in was punitive beyond any fair measure. I told you that at the time. It was denying legal recourse. If the PQ government or a socialist government had done this in the same way it would have been screamed out of this country. How you got away with it is absolutely beyond me. It was the

most draconian bill I have ever seen in this House.

5:40 p.m.

We resisted that, as you recall. I remember the daily taunts from you and your cohorts and the Premier about how we in the opposition were going to contribute to the loss of the depositors' money all around this place.

I remember that takeover in January on a Friday night when you issued the press release. The Premier was in Florida. You disappeared somewhere and everybody was running around saying, "What is going on?"

I think the whole thing was extremely unfortunate. That is the night you should have been there saying there was no crisis. I was the only one there because I knew it was coming, and you knew I knew it was coming. I was the one sitting there on the networks.

Hon. Mr. Elgie: I do not think anyone will accuse me of having hidden during the past year, my friend.

Mr. Peterson: Only at the appropriate times do you hide.

Hon. Mr. Elgie: No one would accuse me of that.

Mr. Peterson: You were not there on the night of the takeover.

Hon. Mr. Elgie: I have been right out front on this issue all along.

Mr. Peterson: The night of the takeover, you were conveniently absent.

Hon. Mr. Elgie: Not conveniently. I gave what information could be given that night. The answers to other questions could not be given until the information was obtained. When it was available, I stood up before the Legislature and made it available.

Mr. Peterson: I am sorry. You did not. As I recall, the takeover took place on a Friday night. The Legislature was not sitting at the time. You disappeared and were incommunicado.

Hon. Mr. Elgie: As soon as information had been obtained which allowed me to give more information to the public, I appeared in the Legislature and gave it.

Mr. Peterson: Yes, after the fact.

Hon. Mr. Elgie: Oh, everything is "after the fact" now.

Mr. Peterson: Dramatically after the fact. But that was the critical night. There was a run on the Crown office in Vancouver that night, and—

Hon. Mr. Elgie: I would submit to you that there was no run. If you read the speech of Mr. Potter, the executive vice-president of the Trust Companies Association of Canada, he will tell you that their search of this country did not reveal anything of any significance in the way of a run.

Indeed, the record is very clear that confidence in the industry has not only been maintained it has been increased, as witnessed by their increase in deposits and an increase in the value of the shares of their companies. It is exactly the opposite of what you are saying.

Mr. Peterson: Mr. Potter is part of this thing, but Mr. Potter is also part of the trust companies operation that tried to withdraw \$64,000 out of Crown the day it was taken over. You came back saying you were satisfied that everything was just fine.

I am telling you that I am not satisfied. I knew about that takeover. I knew about it for 24 hours and I did not embarrass you in any way. I had a lot of critical information at various times that I never used to embarrass the depositors, which was the bottom line.

However, I am telling you that they took advantage of that information, as did another trust company that tried to yank \$1 million out of Crown at the time. You come back and tell me—

Hon. Mr. Elgie: Both those questions were answered.

Mr. Peterson: They were not answered.

Hon. Mr. Elgie: Oh yes; they were.

Mr. Peterson: You came back and said you were satisfied. Frankly, you being satisfied cuts no ice with—

Hon. Mr. Elgie: I will furnish that statement and read it into the record tomorrow, because that has to be clarified.

Mr. Peterson: You came back and said you were satisfied. You knew that they knew. I knew that they knew. They knew that they knew. The brass in the industry knew.

In my opinion, it was a most unfair move. Things like that do not build a lot of faith in the trust companies. The fact that you are not interested in getting at the truth in those kinds of matters, frankly, speaks even louder to the need for an independent look at the situation.

Hon. Mr. Elgie: I think the evidence is clear, for those who want to see it, that not only are we interested in getting at the truth but we have made extraordinary efforts to get at the truth.

Because it does not meet some vision you have of how things should be done does not mean that—independent evaluation would confirm that we are acting properly, appropriately and quickly.

Mr. Peterson: Let me tell you, Dr. Elgie, when you look at all these unanswered questions that you are not looking for an answer to, I think when the history of this thing is written, and it is starting to be written now, you are not going to look all that good. You think you are; I do not think you are.

Hon. Mr. Elgie: I do not think—

Mr. Peterson: You think you have great courage in this matter. Presumably you felt you had great judgement when the whole thing was going on, but I have taken violent exception to that.

I really do not know how I, in the opposition, who have followed this issue very closely, can get anything more out of this situation. I can tell you, though, that when we form the government after the next election—a little bravado, perhaps, but I will tell you—

Mr. Gillies: Get the balloons; get the whistles.

Mr. Peterson: —I would call for an independent inquiry into this matter to finally get at the truth. It is sadly lacking at the present time.

All these questions that you are not prepared to answer—the question of judgement at the time, the evasions, the things not remembered, that kind of thing; frankly, that is not very satisfactory to me. I do not know what more I can do.

Hon. Mr. Elgie: All I can say is that you have judgement problems, in my view.

Mr. Peterson: I have what?

Hon. Mr. Elgie: You have problems with your judgement and your assessment of it. I do not think anybody would objectively say that we have avoided finding out the facts. We have taken expeditious ways to do things.

Mr. Peterson: The way that you have trampled on rights without recourse, the way that you have used the power of government in a very unfair way without giving recourse, the fact that you allowed the situation to develop in the first place; all of these things, when the truth comes out, I think will present a very different view of what happened than your view.

Mr. Gillies: Mr. Chairman, just a few minutes ago it was brought before us that the ministry has already spent some \$12 million and is

spending \$3 million or \$4 million more in pursuing this matter.

Mr. Peterson: Twelve million dollars protecting its own backside.

Mr. Gillies: You just said they are not trying to get at the truth. We just learned a few minutes ago they are spending millions of dollars pursuing this matter. It seems very inconsistent to me.

Mr. Mitchell: You would have had the whole thing played out on the floor of the House and probably lost it. The way you would have gone would have lost all the work they were trying to do and do in a proper fashion.

Hon. Mr. Elgie: I am sure millions of dollars of depositors' money would have gone down the drain following your approach.

Mr. Chairman: Gentlemen, I think we are coming to the conclusion of discussion under vote 1502. We have been discussing item 3.

Mr. Boudria: Mr. Chairman, we have a couple of minutes left and more of my colleagues had questions.

Mr. O'Neil: Mr. Chairman, if I might, this is the appropriate place to get on with this. We are dealing with some of the circumstances and I would like to relate to them as they affect some of the other members and their ridings, and some of the things that have come to my attention in particular.

I do not know whether you have any of the officials here who may have dealt with a project that was under Greymac in the city of Peterborough and who did any inspections or are aware of any mortgages that were let out. Are you familiar with that project and any connection that Greymac has with Stewart Brown Associates?

Mr. Thompson: No.

Mr. O'Neil: You are not familiar with that at all?

Mr. Thompson: No, I am sorry, but I can find out for you.

Mr. O'Neil: I wonder if you could ask your officials about that, Mr. Minister. We have a firm in which there are several people who are creditors, not only in the Peterborough area but also in our area, one of them being a firm by the name of Stanley Structures Ltd. in Belleville that is owed close to \$200,000, along with a lot of other people in the area and in John Turner's riding.

We have this case of Stewart Brown Associates which has stepped in, taken over the project and got a mortgage from Greymac. Several allegations have been made there of

skimming off the top on this mortgage in connection with Greymac.

Since we have only a few minutes, I wonder if I could possibly have a report on that issue of Greymac as it relates to this project in Peterborough. It is adjacent to the Rock Haven Motor Hotel. The project was originally started by this hotel. As I say, a lot of people in eastern Ontario have been hurt because of Greymac on this deal.

Hon. Mr. Elgie: We will have it reviewed and get in touch with you.

Mr. Peterson: Is that an internal or external review?

Hon. Mr. Elgie: Careful, or I will give you an internal.

Mr. Chairman: Shall item 3 carry?

Item 3 agreed to.

The committee adjourned at 5:48 p.m.

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From the Ministry of Consumer and Commercial Relations:

Crosbie, D. A., Deputy Minister

Terhune, H. R., Deputy Superintendent and Director, Financial Examination Branch of Insurance and Assistant Registrar, Financial Institutions Division

Thompson, M. A., Superintendent of Insurance, Financial Institutions Division; Registrar of Loan and Trust Corporations



No. J-21

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations

Third Session, 32nd Parliament

Friday, December 9, 1983

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, December 9, 1983

The committee met at 11:37 a.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

Mr. Chairman: I see a quorum.

On vote 1502, commercial standards program; item 1, securities:

I think we left off with vote 1502, item 1 on Wednesday. I do not believe we got through the item. I think Mr. Peter Dey was here with the ministry.

Hon. Mr. Elgie: Yes, the securities commission and commercial standards people are both here today.

Mr. Chairman: We shall proceed with item 1, concerning securities.

Mr. Boudria: I have one issue I want to raise with the Ontario Securities Commission, although I am sure my colleagues have others. It concerns a topic my leader and I both raised in the House yesterday. Since it is fresh in everybody's mind, I am sure Mr. Dey brought the pertinent information with him.

I think the following happened. Roger Tellier, president of Real Estate Office CIOP was selling an investment contract through newspaper advertisements, beginning some time in October 1982.

Shortly before this date, I understand the Quebec Securities Commission issued a cease-trading order against the same individual. The advertisement I have in front of me looks like a regular guaranteed investment certificate ad: "Invest at 16 per cent, minimum \$5,000" and this sort of thing. "Investment guaranteed," it says.

You would almost swear, looking at this particular advertisement, that what you are doing is buying a guaranteed investment certificate. When you are selling, of course, it has nothing at all to do with a GIC. It says here, "No fees, sound investment and superior yield," and all sorts of other good things that people selling things usually say about themselves or their products.

11:40 a.m.

A number of people in the Ottawa area

invested money in this scheme. I am reading here from an article written by Doug Johanson of the Ottawa Citizen on November 12, 1983, where he describes a particular individual who invested \$40,000 in this company. I do not happen to know that particular individual, although I have a constituent, Mrs. Harriet Wickens, who has agreed to let her name stand for the record.

She invested \$5,000 in this company in 1982. In 1983, when she was expecting interest cheques, she wrote a letter to Mr. Tellier asking why her money was not forthcoming. She received a variety of replies and I will just read a couple of them for the record.

First in July 1983, Mr. Tellier wrote to my constituent and said: "Our company is pleased to announce that it is now entering a computerized system in order to give you a better service. However, before it is ready to operate, we need your full co-operation about some information which I am sure you will readily give. This information will bring us up to date and will speed up any procedures in the future. Be sure to complete the form herewith and send it back to us," and so forth. They had this form which they were asking people to send.

I suppose this is not quite an indication that there was a problem. It was merely a statement saying, "We are trying a new system and be patient with us."

The following letter was a little bit more straightforward when on October 21, 1983, they wrote again to the investors. This is a form letter, so I can assume many investors received the same thing.

It says the following: "A good majority of you have already been informed that Gisèle is no longer working for our company." I assume this must have been a secretary who worked in Ottawa. It says further that the new person taking over the job will be coming to Ottawa and will be acquainting himself with the people.

A few days later another letter comes in and says the following—this is a very tricky one here: "Due to our company's great expansion, the Ontario government is presently negotiating with us about our mortgage investment plan." That was on November 5. Maybe you can tell

me the date, if you wish, of the cease-trading order. I think it was prior to that.

This was kind of a funny way to tell their customers that a cease-trading order had been issued against them—"negotiating because of their expansion."

"During the negotiation and verification period," he says, "we were asked not to accept any more investment nor to reimburse anyone yet." Underline the word "yet."

Mr. Breithaupt: This is like the captain of the Titanic saying, "We have stopped to take on a little ice."

Hon. Mr. Elgie: We are going to dig to see if the hole is a permanent one.

Mr. Boudria: It says further: "Therefore, we have decided to sell a good majority of our small properties in order to compensate for the lack of investment. So the property on which you detain a mortgage guarantee will be sold in the very near future, to the notary's request. In order to assure you the maximum security, we require from the buyer that he reimburses you, by our intermediary, your investment."

"Your accumulated interest will be reimbursed together with your capital at the time of the signature of the discharge by power of attorney. Obviously, some of you will be reimbursed before the due date and others after. Everything will be concluded within a few weeks"—remember, this is October 13—"and your interest will be compounded at the rate presently in effect, such being 14 per cent, until the final reimbursement date."

He goes on to describe all kinds of other things and again talks about his new secretary, whom you can call collect, who will be glad to be of assistance to them.

The latest letter I read to you was, of course, dated October 13. On November 10 they wrote again to my constituent, again with no mention of the cease-trading order or anything else against them. This was a personally addressed letter saying the following:

"As promised, please find enclosed a French registered main levy concerning the notice you have received regarding Mr. Leo Laporte, the second mortgage holder on our properties situated at 798, 800, 806 and 810 Fort St.-Louis Blvd. in Boucherville, Quebec.

"You will also find enclosed the English translation made, to the best of my knowledge . . ." Then, "Trusting that these documents will prove to be satisfactory to you," etc., and signed by Diane Paquette. This is the same secretary

they keep talking about; again no mention by this group that in fact the investment was in danger.

My constituent found out that things were going wrong, really wrong, when she read the article in the *Ottawa Citizen*. Her biggest beef, of course, is that if the Ontario Securities Commission seized their investment, which in fact could happen, why was she not told? The only thing she had at that point was totally false information provided to her by Mr. Tellier; obviously the information he gave to her was totally inaccurate.

The only negotiations I understand that were going on between him and you were negotiations on how to wind it down, what I have been led to believe you had asked to have done. They were not negotiations of how they were going to get themselves more formalized, or anything like that, pertaining to their great expansion. You in fact issued them with date ultimatums to shut down what they were actually doing.

I am not criticizing the fact that you took over. It seems there would have been a lot more people in trouble if you had not. It is okay that you did.

However, there are two questions. The first is, why did it take almost a year in order for you to find out that this was, in fact, in existence in Ottawa? I understand the Quebec Securities Commission had notified you almost a year before that this kind of scheme was going on.

If they notified you, why did you not realize it was going on, especially with the newspaper advertisements? They were very well advertised. As I say to you, the *Ottawa Citizen* advertisement that I have here was from October 22, 1982, complete with Mr. Tellier's picture and a little cutout thing that you sent in to get more information and all that good stuff. You were certainly aware of it. The newspapers certainly were aware at that time.

I understand the name is exactly the same one they were using in Quebec, translated into English, word for word. So they were running under exactly the same name.

Finally, there is this whole business of why the people were not notified at the time, even if it was just a form letter saying the OSC had moved in, or saying to them, "Something is wrong with this outfit; we will keep you informed as steps go along," this type of thing. Obviously this is not the case of somebody quickly withdrawing his money. You were not afraid of a run; there was no way they could touch it at that point.

I am really curious as to why that was not

done. I know that because of the staff shortage, you are having some difficulty doing all those things and proceeding to inform everybody.

11:50 a.m.

Lastly, I wonder if you could tell me how many investors are affected. I understand from the documentation I have that most of them are from Ottawa and Orleans; some of them are from the Quebec side near Ottawa, Hull and that type of region; a few of them are from Montreal, from the documentation I have here. But I only have the mortgage on one or two buildings, and those are the people listed on those particular mortgage documents, so those are the only ones I know. I would like to know the number of people affected, the amount of money involved, the chances of recovery and how much that will be.

Hon. Mr. Elgie: Would John Leybourne please come up? John is in charge of investigations.

Mr. Dey: Mr. Leybourne is joining me. He is deputy director of the enforcement branch.

The Ontario Securities Commission received a complaint from the Commission des valeurs mobilières du Québec in October 1982. They informed us that Real Estate Office CIOP Ltd. had moved its operations and was advertising in Ontario. We forthwith commenced an investigation and reviewed the manner of operations of this company.

Our staff concluded that the manner of operation did not constitute the offering of a security under the Securities Act. Since we had not received any complaint from investors at that point, the matter was not pursued further.

In August of this year, we received some information that investors were inquiring about the manner of operation. At that point, we took another review of the operations and concluded there had been a sufficient change in the manner of functioning that we felt more comfortable with our position under the Securities Act. We were also concerned that this was an investor protection issue. The protection of investors really was our foremost concern.

So we intervened and conducted a complete audit of the operations. We issued the cease-trading order in effect to shut down the operations at that point.

Mr. Boudria: What date was the cease-trading order issued?

Mr. Dey: September 6, 1983.

At first we received assurances from Mr. Tellier that he could wind down the operations in an orderly manner. We went along with Mr.

Tellier for a couple of weeks. However, we were not satisfied that the operations were being wound down in a manner that preserved or protected the interests of the investors. We have since taken action to separate Mr. Tellier from this aspect of the operations.

Mr. Boudria: Will you be winding it down yourselves?

Mr. Dey: We have taken action to appoint someone to do this.

Mr. Boudria: You had given Mr. Tellier until November 30 to come up with a proposal to wind things down. Did he respond to this at all? Or did he just let the days go by?

Mr. Dey: He did respond, but the information received by our staff from Mr. Tellier gave rise to concerns that the wind-down would not be carried out in a professional manner.

Mr. Boudria: You were of the opinion that he was just buying time, that what he proposed would not happen?

Mr. Dey: Because the funds had been frozen, we were able to give Mr. Tellier some time. We were not concerned about the dissipation of funds or property. We felt the assets were protected. We also felt Mr. Tellier was trying his best to come up with a proposal to wind things down in an orderly manner. It became apparent this would not occur, so we have taken action to intervene.

We are still discussing the matter of assets with Mr. Tellier. The outcome of these discussions will determine whether or not a receiver is appointed. The final decision has yet to be taken with regard to this matter.

Mr. MacQuarrie: While examining the records of this firm, did you arrive at any preliminary indication as to the value of investments which had been made, and whether or not there was any likelihood of a shortfall, in terms of ultimate recovery?

Mr. Dey: We understand there are approximately 60 to 70 investors in Ontario in this operation. If Mr. Tellier's estimate of the value of the assets in the fund is accurate, investors will be fully recompensed.

We are now discussing the value of mortgages with Mr. Tellier, keeping in mind the effect of market fluctuations. If his assurances are accurate, we anticipate that once the assets are divided and distributed, Ontario investors will be fully recompensed.

12 noon

Mr. MacQuarrie: Were these mortgages mainly first mortgages or were they a mixture of firsts and seconds?

Mr. Dey: We understand the assets consisted primarily of first mortgages on apartment buildings in Montreal.

Mr. MacQuarrie: Since the investments are largely in apartment buildings, presumably there would be some statements as to rental income and the rest, to see whether the buildings were capable of carrying the mortgage to maturity?

Mr. Dey: That would go into the valuation process, yes.

Mr. Boudria: Could you indicate, Mr. Dey, why you changed your opinion? What led you to change your opinion, that in fact you had the authority to act in this particular case? I understand you are telling us now that you became aware immediately in 1982, in October—and the newspaper advertisements which I have are in October. So in fact, when Quebec notified you right away that they were moving into Ontario, you knew right away and looked into it immediately. Is what you are telling us?

But you were of the opinion at that time that you did not have the authority, obviously an opinion you have changed now since you have issued a cease-trading order. Of course, this being the type of investment it is—is a form of investment contract the proper way to describe what in fact is going on?—why did you not have that same opinion last year to move in?

Mr. Dey: I do not have the details, Mr. Boudria, but I expect our staff was somewhat influenced by a more aggressive selling effort. At that time we were prepared to intervene, and if Mr. Tellier wanted to contest the validity of our legal opinion in an appropriate court, then he could at that time. But we were prepared to undertake that risk in order to stop the operation which we could see attracting increasing numbers of investors.

So I would not concede that we had changed our opinion. There was a change in circumstances and an increased level of concern for the safety of the funds that were being invested. So we intervened. We are prepared to take on the risk of having our opinion challenged.

Mr. Boudria: And of course he has not yet challenged that opinion—since September 6. Is it fair to assume he is not going to?

Mr. Dey: I think it is fair to assume he is co-operating with our staff in winding down the assets, or winding down the funds so that the assets can be distributed. We have not received

any indication that he is contesting our interpretation of our authority.

Mr. Boudria: Had he contested the Quebec authority—in other words, had the Quebec Securities Commission, and I am not sure if that is the proper name for it—but when they moved into his operation, had he challenged that at the time?

Mr. Dey: I assume not. I assume the cease-trading order remained in place and that must have removed him from the jurisdiction of Quebec. But I understand he also made some changes from the manner in which he first operated when he opened his operations in Ontario.

Mr. Boudria: I see. What he was doing in Quebec was not exactly identical to what he did afterwards in Ontario? The follow-up question to that would have been, if the Quebec Securities Commission felt it had the authority to move in and stop him, why did you not have the same authority? And your answer to that is he did not operate quite in the same manner here in Ontario. Is that right?

Mr. Dey: I gather, Mr. Boudria, that when he moved into Ontario, one of the key elements in the definition of a security was, would you put your funds at risk so that they are under the management of some independent party? That is one of the key elements present in finding the existence of an investment contract. In this case, he had to start managing his portfolio of mortgages—turning them over. I think this brought it closer to being considered an investment contract and therefore a security under our act.

Mr. Boudria: I am just trying to go through some of the documentation that I have here. As to the documents he was making the purchasers of those investment contracts or investment certificates sign, he signed those things and so did the purchaser of the certificate—if that is the proper name—or the investor, in any case.

One of the clauses in there states, "Further provided, Mr. Roger Tellier, president of Real Estate Office CIOP Ltd., shall personally subscribe to the said mortgages or hypothec as guarantor of the covenants and obligations created by the same instrument." I gather this is the clause he was using to call this a guaranteed investment. In other words, it seems to suggest he was personally guaranteeing it and therefore it is a guaranteed investment. Is that the conclusion you came to in reviewing those documents?

Otherwise, one year ago, when they issued

them in that way, if you did not have the authority to move in—if that was advertised as being a guaranteed investment, and it was not—would other branches of your ministry not have been notified in order to ensure that this—maybe “misleading” is not the right word—but certainly confusing language in the advertisement could have been detected or stopped?

Hon. Mr. Elgie: Bob Simpson, would you please come up and deal with the question Mr. Boudria has put about whether this constituted some other type of investment that fell within some other legislative mandate?

Mr. Simpson: Mr. Chairman, at the time it came in, in the fall of 1982, our people looked at it. The registrar of real estate, who was also the registrar of mortgage brokers, and his staff looked at the documentation. They concluded at that time that it was not an instrument or scheme which brought it within the purview of the Mortgage Brokers Act or the Real Estate and Business Brokers Act. They therefore took it up with our colleagues at the Ontario Securities Commission.

Mr. Boudria: When was this conclusion arrived at?

Mr. Simpson: I think it was the fall of 1982—late in 1982. I have not had an opportunity to do more than have a telephone conversation with the registrar and glance at a note to file, but I believe it was at the end of 1982 or early in 1983.

Mr. Boudria: Maybe my colleague here, who is learned in the law, can give me a hand with some of this. If it was not a security and it was not a mortgage per se, which you have authority over, what was it? Did this particular kind of venture fall between two chairs? I am just wondering who had the authority at that particular time in 1982.

12:10 p.m.

Mr. Dey: The key point was that the commission decided it should not intervene at that point. But once his operation changed, once he started managing funds and rolling his portfolio and reinvesting the portfolio, turning over the mortgages—that element was necessary for it to be regarded as an investment contract under the Securities Act. That emerged as his operation evolved in the course of this year.

Mr. Boudria: So in other words—

Mr. Dey: I might just add, Mr. Boudria, that as his operations evolved in the course of 1983, our investor protection concerns also hyped.

That is why the decision was easier and more readily taken to intervene.

Mr. Boudria: I will just switch my line of questioning for one minute to another area of the same concern. The buildings that we are talking about—the one I have, of which Mrs. Wickens is now a partial owner—are in Boucherville, Quebec. Has there been any attempt to get an evaluation of those buildings, any of them, or is it too early for that? Are you still operating only on the value that has been placed on those buildings by Mr. Tellier?

A follow-up to that is: How were those buildings originally evaluated in any case—with arm's-length transactions and all those other things that go with that particular kind of questioning?

Mr. Dey: Apparently, Mr. Tellier has taken some steps to obtain independent evaluations. We are not satisfied with them at this point, so we are still reviewing those evaluations.

Mr. Boudria: Did he get those evaluations pursuant to directives that you gave him or was that an initiative he took on his own?

Mr. Dey: Apparently, Mr. Boudria, these evaluations were obtained on Mr. Tellier's initiative. We also understand the Quebec commission has informally looked at the value of some of these properties. The values attributed to them by Mr. Tellier and his independent evaluator are approximately or reasonably comparable to the values on similar properties in the same area.

Mr. Boudria: In other words, you are indicating they could not possibly be too far off—

Mr. Dey: On a preliminary review, they seem to be in the same ball park as the values of other properties in the same area.

Mr. Boudria: So it does appear then that the first mortgages on those buildings were 90 per cent. I do not know whether this particular one is 90 per cent of the value of the building, but his agreement with the people purchasing those investment contracts was that he would not exceed 90 per cent of the value of the building. That is correct, is it; 90 per cent?

If he has done that, that would indicate you will likely be able to recover the funds, assuming you do not have to sell them in a fire-sale type of manner. Selling at this time of year, as most real estate people know, is not usually quite as good. It is not quite as good in residential properties, anyway; maybe in an apartment it does not affect it as much. Generally speaking, real

estate does not sell for quite as much in December or January as it would in April, for instance.

Mr. Dey: I accept your opinion on that. I think we are anxious that whatever wind-down of the mortgage portfolio is undertaken, it be undertaken in an orderly manner so the kind of fire-sale scenario that you identify does not occur.

Mr. Boudria: Have you made any attempts now or do you think it would be possible for you in the future to notify the—how many, 60 investors?—

Mr. Dey: Approximately 60 to 70 in Ontario.

Mr. Boudria: —at least to let them know what is going on? Really, the only communication they have is through the newspaper. I know you certainly are not overstaffed, but you are very busy with the complement you have. Is there any way that either you or the minister could undertake to inform those investors of all the matters that have been going on, if that has not already been done over the last few days? I know that up until a few weeks ago that had not occurred in any official way.

Mr. Dey: It is an interesting suggestion. As you probably know, a cease-trading order on conventional securities is generally communicated quite readily through the financial press. The investors also are concerned about the liquidity of their investment in the secondary market so that communication of the order is not an issue. When you get into a fund such as this where there is really no secondary market, it may be that your suggestion should be considered.

Hon. Mr. Elgie: We will pursue that.

Mr. Boudria: Good. I hate to monopolize the whole morning with an issue but I am sure other members from the Ottawa area have questions from their constituents. I can see constituents from other members on these documents I have here, so if other members have questions I would be willing to cede the floor.

Mr. Chairman: Are there any further questions on item 1? That being the case, shall item 1 carry?

Mr. Boudria: Just to put one more thing on the record briefly if I can, I am looking here at a pamphlet that the company had, of which I have provided the minister a copy. This is the pamphlet that was sent to people who replied to the original newspaper advertisement, or at least

that is what happened to my constituent Mrs. Wickens.

Its wording is so borderline when you look at it. Expressions such as "maximum security" and "loan guaranteed at 100 per cent" are used freely all over the place in the document. I am not sure whether it is misleading advertising or not but it is certainly confusing when you look at it.

A person who is investing a small inheritance or what have you and has not personally managed large amounts of funds before, or has never invested in the stock market or anything like that, looks at this leaflet and would certainly be led to believe that he is, as I said earlier, buying a guaranteed investment certificate. I know it is not that. Many of us would know that but there are quite a number of people who would not be aware of it.

Looking at such things as maturity, it says "the loans are renewable, repayable when your contract reaches maturity." A fortnight before the maturity date, the creditors receive a notice from the real estate office reminding them of the maturity date and indicating how to proceed with renewal. It sounds as though it is the typical kind of thing that a trust company sends to people buying a registered retirement savings plan. I get mine at this time of year telling me: "If you want to renew your RRSP, this is our rate for this year. We are sending you this a month before, as we promised we would before you bought into this thing," and so on.

Again, these are loans guaranteed at 100 per cent by mortgage. What does "guaranteed at 100 per cent by mortgage" mean? It is a confusing expression. I guess the only thing it means is that he will use it to buy nothing else but mortgages. That is probably what that means. Nobody can guarantee you that a mortgage will be worth 100 per cent of what you invest in it. That could be interpreted in one of those two ways when you read that sentence, at least from my own reading of it.

12:20 p.m.

Mr. Dey: No doubt your reading of that advertisement contributed to the apprehension that our staff had about the value of the underlying investment and probably contributed to the motivation to intervene.

Mr. Boudria: Again, this is an ad that my constituent received in October 1982. This little leaflet, of which I have just given a copy to the minister, is the one that was sent to her in reply to the newspaper advertisement. She did not fill

it out at that point; she went into their office, but she kept that newspaper advertisement until now.

Mr. Dey: Mr. Boudria, when we first intervened or made our first inquiries in October of last year, the staff were concerned about those advertisements and requested that he cease using them. He did until the summer of 1983, when our interest was revived again.

Mr. Boudria: So he withdrew the pamphlet I have here at that time?

Mr. Dey: We were aware of the existence of the newspaper advertisements. We did not see the pamphlet.

Mr. Boudria: But the newspaper advertisement was about how to send for a pamphlet; that is what the newspaper advertisement calls for.

Mr. Dey: Presumably he must have been marketing through the pamphlet only.

Mr. Boudria: The newspaper ad says, "Fill this in and send for a pamphlet." There you go, "Real estate office: Please send me a free brochure." That is what the newspaper advertisement consisted of. By filling out and sending in one of these, my constituent got back one of these—"these" being, for the record, the brochure in question. You were not aware at that time of the existence of this brochure?

Mr. Dey: We were not aware of the existence of the brochure.

Mr. Boudria: I suppose I have run out of questions on this; I have pretty well asked everything I can think of. I find it unfortunate that if this company were acting improperly, the whole thing went on for a year before it was stopped. It is my hope that my constituents and everybody else do not lose any money over this deal. Some of those mortgages are subscribed to the tune of 90 per cent of some value at that time, and real estate values are going up and down the way they do on occasion. I hope you are correct and that they do not lose very much. They will probably lose most of the interest and that type of thing that they felt was coming to them. The people who invested at 16 per cent a year ago and are expecting to receive \$1,600 on a \$10,000 investment would probably be losing at least that much.

It would be helpful if you could recover enough to repay everybody plus interest. I gather he was paying interest on previous contracts by selling new contracts to somebody else, and that is part of the reason you moved in,

is it not? In fact, he was using new money to pay old interest, is that not so?

Mr. Dey: I think it is fair to say that the staff were concerned about the ongoing viability of the operation, and doubtless that was one of the factors that contributed to their concern.

Mr. Boudria: In other words, yes. Or you feared it was happening; you were not sure. You feared it was happening.

Mr. Dey: Undoubtedly the funds that were coming through the sale of new units were probably used to pay interest on outstanding units, but I do not suppose there was any way of tracing the funds specifically to that. They would presumably go into some pool of assets and be drawn upon to pay the outstanding interest obligations.

Mr. Breithaupt: It seems like the traditional scheme that we hear about so often.

Mr. Boudria: A pyramid scheme, security-wise, is what could have been happening to a certain degree, in fact. In other words, you have the new investments, and you have to pay the interest on something on which you probably offered too high interest at the fore.

I have one final question, if I may. Throughout your surveillance of events, your watching of these events going on, how did the interest that they were offering compare with other financial institutions? Were they offering interest rates which were substantially higher? Perhaps I should have checked this out before coming in here. I do not know what interest was at on October 22, 1982. They were offering 16 per cent at that time. I believe that was when we had quite high interest rates.

How did this compare? Right up until you stopped them from operating, were they offering higher than normal interest rates? If so, how much higher than normal were the interest rates they were offering? In other words, I would like to know if it was high enough to be concerned right away and to say: "They cannot offer 16 per cent on money. They could get their money elsewhere at 13 per cent, or something like that." Were they just competitive rates?

Mr. Dey: We had the impression that they were perhaps a point or two above competitive rates, but that just comes from a vague recollection of the file. That is not based upon hard information which we have with us right now.

Mr. Boudria: I see. I would like to pursue that. I think I would like to phone some of the other mortgage brokers in the Ottawa area, such as Glen Coulter Mortgages or Scot-Mor

Inc., to see what they were paying for money at that time; not what they were lending it for, but rather what they were paying for it.

Presumably, that should have been a rate quite similar to this company's. Would you not agree? To operate on the same market, it would have to have been.

Mr. Dey: I would expect that they would be competitive rates, but I suppose the rate that one could offer would reflect one's ability to manage the assets that were backing the project.

Mr. Boudria: What reason would you have for offering anybody 16 per cent for money if you could get it from someplace else at 14 per cent, other than the fact that you were making your investors take a substantially higher risk and thereby offering them a higher interest rate to compensate for that risk, a risk which they were unaware they were participating in from reading the information provided? Am I not right?

Mr. Dey: I do not disagree with you. I think that is a valid observation.

Mr. MacQuarrie: Looking at the interest supposedly payable on these various units as opposed to the interest payable on the basic investment under the terms of the mortgage that presumably forms the basic security, how did that compare? This is one of the key questions to the prospect of the scheme breaking even and ultimately showing a full recovery for the investors.

Were the interest rates payable under the mortgages and the interest rates payable from time to time on the various units comparable?

12:30 p.m.

Mr. Dey: I cannot provide that information at this time. It would obviously involve a review of the mortgage portfolio and the prevailing rates at the time these units were offered and the rates at which the units were offered. We will undertake to do that and provide that information.

Mr. MacQuarrie: I would appreciate it if you would, because in your earlier statements you indicated that preliminary indications were that there would be no loss to the investors if the portfolio proved out.

Mr. Dey: That is correct.

Item 1 agreed to.

Mr. Chairman: Before we move to item 2, may we have agreement of the committee for Mr. Philip to raise two questions under votes previously carried, votes 1501 and 1502, item 3? Do we have agreement? Agreed.

Mr. Philip: Thank you, I appreciate the tolerance of the committee in this regard. It was in relation to something that I raised in the House today and the minister said we could discuss it.

The minister was responding to the member for Renfrew North (Mr. Conway) and to my supplementary and said he would be happy to get the information and perhaps we could discuss it in estimates. I had not realized, not being a member of the committee, that the vote had carried. I appreciate the indulgence of the committee.

Hon. Mr. Elgie: The Liquor Control Board of Ontario people are not here. If you would like to raise this next week, I could have them here. I would agree to that.

Mr. Philip: Okay, sure. The other question that was on the vote is just a small thing but it is an irritant in my riding. That is under the Cemeteries Act.

There seems to be a problem with policing. I have approached your people and they have gone after a particular private cemetery, it is probably a nonprofit cemetery, on Islington Avenue north of Finch, that is kept in fairly shabby condition. When your people do go after them, the fence seems to be straightened and so forth but it is still a bit of an eyesore.

What is the problem? Are a lot of these cemeteries underfunded and therefore having trouble keeping up the maintenance? I recognize it is an old cemetery. A lot of the people who have moved into the area are of a different religious persuasion and different ethnic background. They see this old Protestant cemetery that is in bad condition, yet here they are fixing up and spending a lot of money improving their homes because a lot of them are in the construction trades. I get a constant array of complaints.

Your people are always very responsive and say that they will talk to them and the fence gets painted and so forth, but it is still an eyesore. Is there a problem with the funding of some of these older cemeteries? What are you doing to try to keep them up, in particular where they exist in residential areas and are an eyesore to the housing in the vicinity?

Hon. Mr. Elgie: Frankly, I would have to ask the deputy to comment on that.

Mr. Dey: I cannot give any specific comments on that cemetery because I am not familiar with the precise one. That is an ongoing problem with cemeteries. Where they were private cemeteries, the people who were originally respon-

sible for them may have passed on. There is a provision for cemeteries to be taken over by the municipality but there is also an interim stage where the people who are responsible for them do not have sufficient funds. It is an ongoing difficulty. If you could give us the details, our people would undoubtedly know. I could get more specifics on that cemetery.

Mr. Philip: I have written to your people on a few occasions about it and it does seem to improve after I have written.

Mr. Breithaupt: Is it still an open cemetery?

Mr. Philip: I am not certain about that. Maybe you can simply check it out. It is the one on the west side of Islington Avenue north of Finch. Even if you could somehow get them to put up hedges or something green rather than the rusty wire fence, I think some of the people in the area would appreciate it.

I appreciate the indulgence of the committee and thank you.

Mr. Chairman: Thank you, Mr. Philip.

Before we move on to item 2, the clerk has circulated the proposed sittings we have scheduled in the spring. We will discuss them at about 10 minutes to one o'clock so we can finalize them.

Mr. Breithaupt: Mr. Chairman, I suppose we could take a moment now, if you wish.

The committee moved to other business at 12:36 p.m.

12:52 p.m.

On vote 1502, commercial standards program; item 2, pension plans:

Mr. Mitchell: Mr. Chairman, do you feel 10 minutes is sufficient? It might be worth while to start afresh, but I know the people from pensions have been waiting with bated breath to answer the questions of the committee. I leave it up to your consideration.

Mr. Chairman: Since we are all here and there are only 10 minutes more, we may be able to get through the vote, at least partially.

Mr. Swart: You may want to do this later or you may have already done this, but I am wondering how much time we have left after today. Where are we now?

Mr. Chairman: We have roughly five and a half hours after today.

Mr. Swart: Perhaps we can do this until one o'clock. There is a lot that has not been covered and I think we should try to schedule the issues members of this committee most want to cover.

Hon. Mr. Elgie: Sure. Whatever you wish.

Mr. Chairman: Mrs. Salamat and anyone else with you, would you come to the table?

Mr. Gillies: Mr. Chairman, I want to ask a couple of questions regarding the Pension Commission of Ontario. In doing so I am very aware, of course, that a lot of the major decisions on pension policy are made by the Ministry of Treasury and Economics, and we are talking about an administrative body here.

I would like to know, because your former chairman, Mr. Bentley, was so helpful to us on the select committee on pensions, if you can give me an idea of the number and types of inquiries you get, both from members of the Legislature and directly from members of the public regarding pension matters. What is your capacity to respond to them?

Mr. Chairman: Before we start, would you please put your names into the record.

Mrs. Salamat: Gemma Salamat, superintendent of pensions.

Mr. Nastajus: Ignace Nastajus, assistant superintendent, operations.

The numbers of phone calls or written inquiries we get tend to vary. The written inquiries average 100 to 125 a year, and they are, in the main, from the public. Of those, perhaps 20 are from MPPs on behalf of constituents. The remainder are directly from the public.

As to telephone inquiries, there are well over 16,000 per year, of which complaints would be approximately a quarter or less. Telephone inquiries from MPPs are not kept separately from anybody else, so I cannot give you the figures for them.

Mr. Gillies: I appreciate that. I do not know whether other members could come in on this, but I am finding as every year and every month goes by that I am getting more and more questions from constituents about the pension issue, and I have every reason to suspect we will continue to get more and more.

What I am wondering, and perhaps I should direct this more to the minister, is whether the ministries involved should be trying to link more closely the policy directions we take in terms of pensions and the administrative arm. A lot of the questions we have directed to us are a blend of administrative questions and policy questions.

In other words, they are often not divorced in terms of, "Under this plan, am I entitled to X, Y or Z?" That is often linked to an inquiry as to whether X, Y or Z is allowed under legislation.

I wonder if you could comment on that. This is going to be an increasing problem for mem-

bers and I think we may need to beef up our response capacity.

Hon. Mr. Elgie: You have hit upon a key issue. As you know, there is a pension policy division of the Ministry of Treasury and Economics. There is an interministerial committee on which we have representation from the pension commission with respect to pension policy.

There have been some studies making the very comment you have made, namely, that it is very difficult to separate administrative and regulatory activity from policy activity. To be frank with you, I find it difficult too. I find it difficult to be receiving delegations with respect primarily to policy issues, when really we can only respond in any meaningful way to administrative and regulatory matters, but that is the way it is.

As you know the Premier (Mr. Davis), at the first ministers' conference earlier in the fall, designated the Treasurer (Mr. Grossman) as someone who would carry on discussions with his counterparts on an interprovincial basis with respect to pension policy.

Having said that, I may say I still find it a difficult mandate. Speaking on behalf of the pension commission, and the superintendent and deputy superintendent, I think we all find it a little difficult to separate the two because they really are intertwined. However, that is the way it is.

Discussions are frequently going on about the separation. At the moment it is being dealt with through an interministerial committee on which the chairman of the pension commission sits and I believe you go to that, too, Mrs. Salamat.

Mr. Gillies: I appreciate your comments. If it is any help, I wonder if you could take back to your colleague the Treasurer and to the Premier the voice of at least one more member who would appreciate more co-ordination in this area.

I can appreciate there is an interministerial committee which is working on this, but that, of course, is difficult for us as private members to access with our individual problems. I just throw that out.

Just in terms of policy—

Hon. Mr. Elgie: I guess the rationale for the other is it clearly does have Treasury implications, whatever directions one takes in the area of pension reform, and the—

Mr. Breithaupt: We are finding concerns in the teachers' superannuation which are more

mathematical and financial than of principle or of political difference. This is where the difficulty comes.

Hon. Mr. Elgie: It is a difficult separation, but you can perhaps understand why historically it has been that way.

Mr. Gillies: Perhaps I could ask you in terms of your membership on the interministerial committee; I know these are more policy questions, but could I elicit an opinion or two from you as to where we stand on some of the major recommendations of that pensions committee?

I am thinking about improved vesting and portability and in terms of making pension benefits available to part-time workers where there is a plan for full-time workers and that sort of thing. Are we actively pursuing some of the, I think, excellent work that committee did?

Hon. Mr. Elgie: I think there was excellent work done by that select committee. I can only say the Treasurer made a speech on that issue, I think it was last month, and he indicated pension reform was one of the foremost issues on his mind for 1984. As you know, it is expected the federal government's committee on pensions will be reporting shortly as well. I know that in his speech he did refer to issues such as portability and vesting.

I really cannot comment further than that because I am afraid that is an area he will have to deal with in respect to policy.

Mr. Gillies: I might just direct one more question to you then. If you were to get from a member of the public or from one of us an individual inquiry that had policy implications, how would you deal with it? Would you then talk to people in Treasury and compile a response that would take into account both aspects?

Mrs. Salamat: Actually, we have been trying to do this so we do not duplicate each others' efforts. I would try to do the best I can knowing full well what Treasury is thinking.

I would ask, "Is it okay?" I would talk to the official at my level and ask, "Would you like to deal with it or would you like me to deal with it?"

Mr. Gillies: Very good, I appreciate that.

Mr. Swart: I was just going to pursue the matter of whether there was any legislation coming in soon with regard to amendments to the Pension Benefits Act. The minister indicated the Treasurer had made the comment that it was high in priority. Does he anticipate there will be legislation or that a draft bill or something of that nature will come down first?

This has been going on for a long time. I am anxious to—

Hon. Mr. Elgie: I do not respond in this way, indicating it is not a problem, because it is a problem. I think the Treasurer has indicated that it is a high-priority issue for him.

As soon as a determination is made, both within the interministerial committee and following interprovincial discussions which the Treasurer is having, I suppose the determination of legislation will depend on the content. That will come only after those decisions have been made.

Mr. Swart: I must confess my ignorance here. Any legislation that comes in would come under this minister's jurisdiction, would it not?

Hon. Mr. Elgie: Yes, it would. That is another anomaly of the system.

Mr. Swart: I was just going to ask, is the minister not at the centre of all the discussions leading up to this?

Hon. Mr. Elgie: No.

Mr. Philip: Will it be coming in before the minister is eligible to collect it?

Hon. Mr. Elgie: I hope to stay around a good many years to receive a pension.

Mr. Gillies: I wonder if the minister would like to take over the whole thing, or does he have enough to do?

Hon. Mr. Elgie: I have no comment.

Mr. Chairman: Are there any further questions on item 2?

Item 2 agreed to.

Mr. Chairman: At this point we should adjourn and we will reconvene Wednesday next at 9 a.m. The committee adjourned at 1:02 p.m.

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 Nastajus, I. A., Assistant Superintendent — Operations, Pension Commission of Ontario
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Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations

Third Session, 32nd Parliament

Wednesday, December 14, 1983

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, December 14, 1983

The committee met at 9:05 a.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

Mr. Chairman: Ladies and gentlemen, I see a quorum. I think the first item of business the member for Welland-Thorold (Mr. Swart) wanted to discuss this morning was the allocation of time for some of the votes.

Mr. Swart: Yes. We have five and one half hours left, or about that amount of time, according to the record.

Mr. Chairman: That is correct.

Mr. Swart: Perhaps the clerk can tell us exactly where we were. What vote are we now on?

Mr. Breithaupt: I think we were on financial institutions were we not, Mr. Chairman?

Mr. Chairman: We had carried financial institutions last Thursday. We were on vote 1502, item 4, motor vehicle accident claims fund. I think we were just going into that.

Mr. Breithaupt: If you wish, we have about three and a half hours we could use this morning. I would suggest that we agree to complete vote 1502 and vote 1503, technical standards program. Then tomorrow, because of the expected lengthy statement of the Treasurer (Mr. Grossman), I suppose we might have in the range of an hour in committee, and we perhaps could agree to do votes 1504 and 1505.

That would then leave us with a remaining hour or thereabouts on Friday morning. Perhaps we could agree at that point, regrettable though the time shortage is, to carry the last three votes: 1506, registrar general program; 1507, liquor licence program; and 1508, residential tenancy program. That would be a simple division of the time that would at least allow the opportunity for everything to be touched with a question or theme that a member might have. Of course, we could obviously be well advised to spend the whole time on any one of the items; however, we do not have that opportunity.

Hon. Mr. Elgie: How do we report to the House on Friday afternoon?

Mr. Breithaupt: I would think it would maybe come back as simply one of the orders of business by reverting to presentation of reports—

Hon. Mr. Elgie: On Friday.

Mr. Breithaupt: —at which time the chairman would make that report. It would be entered automatically on the concurrence list and be cleared up then.

Mr. Mitchell: This raises an interesting point. Can the clerk or the chairman inform us exactly what the schedule is for the balance of this week? My understanding was that there was some hope the House might wrap up on Thursday evening.

Mr. Breithaupt: I know I am handling five Attorney General bills on Thursday morning. I think at this point the House leaders are still looking at new legislation—all of the stuff that is on the list.

The Barrie-Vespra township matter is obviously going to take at least a little while for views to be expressed. We then go on to a variety of other bills. Each concurrence, while some of our colleagues are prepared not to go ahead, usually brings a comment or two from somebody somewhere. There are 15 or so of those. Then we have the windup as well. Do not forget that.

Mr. Mitchell: Is it expected we will sit all day Friday, then, or do we have to be back here next week?

Mr. Breithaupt: I certainly think that is possible.

Mr. Mitchell: In other words, we sit our normal sitting on Friday—

Mr. Breithaupt: No, I would expect—only by virtue of having been around a few years—that somewhere around 4:30 or 5:30 or 6:30 on Friday afternoon we will be finished.

Mr. Mitchell: It fouls up my constituency weekend.

Mr. Breithaupt: It depends whether you want that or the beginning of your next week fouled up. Of course, if you are here anyway, it does not matter much.

Mr. Swart: I do not think there is any alternative but to play it by ear.

Mr. Chairman: Yes, that is how we were discussing it.

9:10 a.m.

Mr. Swart: We do not know when we are going to be winding up. It is likely we will have a Friday session, but we may have to cut it short to report. We are simply going to have to play it by ear as we go. We are going to have today and whatever is left of Thursday afternoon. Most of our time will be used up by then.

Mr. Mitchell: Mayhaps. One other alternative may be available to us. If there are specific votes members opposite are interested in, maybe those could be identified and the others where, relatively speaking, there are no questions could be passed and we would know we have that amount of time.

Mr. Swart: As far as this party is concerned, I would like to have some time on the business practices division in vote 1502. We will probably come to that in the normal course of events this morning.

Mr. Chairman: Yes, probably.

Mr. Swart: I am not sure about my colleague, but as far as I am concerned, if you are prepared to go right to that at this time, we would also like to have some time on vote 1508 on the Residential Tenancy Commission. I suggest, subject to my colleague, those are two priorities.

Mr. Cassidy: To the member for Welland-Thorold, just catching up as quickly as possible, I would like to make a specific suggestion with respect to vote 1508.

If the Treasurer's statement tomorrow afternoon goes on as long as we have been told, we will be lucky if we get more than about an hour and one half in this committee. Wherever we are at and whether there is more time on Friday or not, I suggest setting that time aside for the residential tenancy program. We would start on vote 1508 at the beginning of that session and if it runs out prior to the end of the hour and one half, we would not necessarily close off the previous votes but agree that an amount of time be given to that question.

Mr. Mitchell: That does not give me any degree of difficulty for this side. I think that is a good and valid suggestion. It would appear we have business practices and RTC as the two major issues the members opposite really want to have some discussion about.

Mr. Swart: Unless Mr. Breithaupt has some area that—

Mr. Breithaupt: Every area is worthy of review. There might be some way to have some agreement as to allocation of time. I only made my initial suggestion with the hope of at least giving members an opportunity to raise a particular point along the road for their convenience, and I mean members not only of the opposition, but on the government side.

Mr. Mitchell: You are suggesting votes 1502 and 1503 this morning?

Mr. Breithaupt: Votes 1504 and 1505 tomorrow and the last three on Friday.

Mr. Chairman: Mr. Cassidy suggested we do vote 1508 tomorrow, which would be the Residential Tenancy Commission.

Mr. Cassidy: I suggest we are simply going to have to skip whole votes in view of the time available. If it were possible, we could give 15 minutes to the question of video pornography, so the minister could say a few words about that question. I think both Mr. Boudria and I raised the question in our leadoffs. If it were possible to give about 15 minutes to some questions about the Liquor Control Board of Ontario, that would be helpful. But I am not prepared to try to have those intrude on giving the time to residential tenancies.

Mr. Mitchell: I understand that.

Mr. Breithaupt: That is fine from your point of view. You are prepared to talk about one issue and not a variety of others. I realize the residential tenancy issue is as important, if not more so, than many of the others in the ministry. However, my thoughts on the matter are that I believe a somewhat more equal division might be useful for our colleagues, even though some of them are not here at the moment.

Mr. Cassidy: I think it is agreed we go to business practices now. I am prepared to be very co-operative today in order to—

Mr. Mitchell: You are always co-operative.

Mr. Cassidy: Of course, I am. I will be even more co-operative then. But I think the concern about tenancies cannot be ignored. If we leave it past tomorrow, that may be happen.

Mr. Gillies: I want an opportunity to ask a question or two about the theatres branch, but not to take any particular length of time.

Mr. Mitchell: We are a little flexible, I think.

Mr. Chairman: It appears we will move along reasonably well. If Mr. Breithaupt has some concerns, I think we can address them too.

On vote 1502, commercial standards pro-

gram; item 4, motor vehicle accident claims fund:

Mr. Chairman: Are there any questions?

Mr. Breithaupt: Yes, I have a couple of points I would like to raise under the fund. Perhaps we could have the officials with us for that purpose. I particularly want to try to get a handle on the current status of the variety of claims in the fund and to know what sort of ties there are now with the Ministry of Transportation and Communications as far as connecting the names and the current value of these claims to the driver's licence situation.

Mr. Thompson will recall the discussions we had and the general suggestion made about how we can improve the opportunity of the buyer of a used car to be able to find out all about the possible claims against a vehicle. I appreciate that eventually that kind of information may be built into the console at the local driver licence issuing branch or office in a community.

Is there also a prospect of having this kind of information from the accident claims fund eventually in that place? The reason I ask is that there is the continuing problem of those people who are driving without licences. One wonders how we will ever know, how we will ever try to get a handle on the particular number of people, the actual population of those who drive without licences.

It may be a simple enough matter to try to match up, with the ability of computers, the number of active licences that have been issued and find information about them, through either the plate-to-owner system of possible fines that are against that vehicle or a variety of other information. I wonder if the MVACF plans to go into that same kind of computer network so there will be more clearly based knowledge of this last four or five per cent of drivers within the province who are the ones who have not as yet been brought into an insurance system or probably into the kind of social system we would prefer they be in.

Mr. Thompson: If I can endeavour to respond to that, there are a number of initiatives under way. Basically, the fund is dealing with the uninsured. It does have its process in place for paying the claim and so recording it and the right to suspend the licence, etc., through the Ministry of Transportation and Communications. That has been working for many years.

9:20 a.m.

I think your concern is probably more in connection with the small percentage of people

who drive without insurance for one reason or another or allow it to lapse, which is the particular problem. We have a program to assist the police. Our identification of the problem was that it is very easy for somebody to obtain a pink slip and then not pay a premium instalment or something. They have the slip for the year and the insurance has lapsed.

In the enforcement area, Mr. Bill Laur in my office has set up a program of assisting the police. The way that program operates is that if particular police agencies wish to participate in it, any time they stop a vehicle, ask for a pink card and have any doubt in connection with it, they can phone Mr. Laur at our office. He will collect that information from the insurer indicated on the pink slip and relay it back almost automatically. So there is a verification system.

Mr. Breithaupt: It may well be that kind of a verification system is as practical as one can get, even though there is a certain time delay. I do not know the answer to this one, but we will try it anyway.

Do you think there is any practical computer-based possibility of keeping a better track of those, or even finding out those drivers, who are not insured and who are in this four or five per cent pool? On the other hand, is that kind of telephone match up, perhaps a day or two later after there has been some intermediate contact, as practical a way to deal with this as we can find? I recognize it is not possible to match up all these millions of pieces of paper. You and I have been through all that.

Mr. Thompson: Yes.

Mr. Breithaupt: Computers are supposedly the answer to many of our needs for information retrieval. Is there a better way or is there really any more practical way of finding out the details of that particular driver other than a simple matching up process where there is a particular suspicion? Even if you had a program, would it be worth the effort of trying to make it go and have all that information in it when it would be comparatively rarely used or used in a way so it would not have to be within the hour, but rather a day or so later would be a satisfactory time in which to get that information?

Mr. Thompson: The problem is the changing insurance-buying pattern. It is relatively stable now, but about two years ago approximately 40 per cent of the driving public buying insurance switched their companies. The cost of implementing a computer system so we would know whether so-and-so had cancelled his insurance

and replaced it or not during the term of the licensing year with one of some 180 companies—the search for the information— would have to place a very heavy onus on owners to report that information immediately.

Mr. Breithaupt: But you would not necessarily be any better off for having that information when you can deal with the particular suspicion of a police officer within several days, as opposed to the officer being able on the console in his car to punch up a driver's licence, or a name or a social insurance number or whatever, to verify that at that particular moment there is valid insurance.

Mr. Thompson: In looking at it, with such a vast switch—it has settled down, but it seems to still be around the 30 per cent mark—with that massive flow of information, the cost of the system would be relatively horrendous.

Mr. Breithaupt: For the benefit that anyone practically would receive.

Mr. Thompson: Yes. I think that, to the best of our ability in checking via accident statistics and otherwise, we have relatively very few uninsured people on the road. Of course, as you know, the policy of the enforcement was for heavy fines as a deterrent.

Undoubtedly, if there is any marked change in the population on the uninsured pool, we would have to search for other remedies. We are now at the stage that the program they have would probably be extended to the Ontario Provincial Police. There are ongoing discussions that the OPP would utilize this referral program. As you say, it is really leaving it up to the discretion of the individual police officer.

By and large, it has worked pretty well. All indications are that compulsory auto insurance is reducing the number of uninsureds on the highway, and it—

Mr. Breithaupt: That is certainly what they had hoped for.

Mr. Thompson: Yes, so perhaps we can keep this up. But we have had discussions—perhaps Mr. Miles can tell you about these—in a number of committees, and so on, with Ministry of Transportation and Communication co-ordination.

Mr. Miles: First of all, when I was on a steering committee that looked into this question of validation and so forth, it was estimated—now, this is back three or four years ago—

Mr. Breithaupt: What we used to call the South Carolina system, I guess. We felt that they

were trying to match up all these pieces of paper.

Mr. Miles: Three or four years ago, it was going to cost a minimum of \$3 million to have a system which would verify whether insurance was in force or not but still would not be effective.

Let us say I notified my agent that I was cancelling my policy with him today and transferring to another company. If the other company was not as quick to notify the computer, I would still have insurance. However, through them, you could then be harassing the innocent, law-abiding members of the public who do have insurance but just do not happen to have it recorded on the computer yet.

The other thing, of course, is that you can cancel a policy. There is nothing illegal about cancelling the policy—you still have your plates and your car, as long as you do not drive it. There are people who will cancel insurance, and as long as the car is sitting in their driveway, there is nothing wrong with that.

Really, the biggest problem today is the person who drives under suspension. It does not make any difference—

Mr. Breithaupt: That is not going to solve that one anyway.

Mr. Miles: That does not solve that problem, and it certainly does not affect the insurance requirements, because they do not apply if people are driving under suspension. They are not qualified drivers. That is really our biggest problem: nailing the people who drive under suspension.

You mentioned the fund earlier. Any claims we pay automatically go on the computer, and automatically go on the MTC driver record of someone who is involved in a claim where the fund is paid out on their behalf. Until such time as we are repaid in full, it is recorded.

Mr. Breithaupt: So the ordinary, prudent insurance company checking a driver's record on the transfer of a policy to that company will have that information quite readily available.

Mr. Miles: No, they do not get the information regarding someone owing the fund. The record that the insurance companies get deals with traffic violations; ours is a separate record. The MTC record will show that a man is under suspension, because he has not made any arrangements to repay us. Other than that, the insurance company would have no record that he has owed us off and on.

Mr. Breithaupt: No, I understand that. Would there be a record as to the fact that there is now an outstanding debt, upon which payments or arrangements for payments are being made?

Mr. Miles: Only that—

Mr. Breithaupt: It is not a matter of privacy; that is not—

Mr. Miles: That is a matter of privacy, except that as long as they owe the fund and they want to drive, they have to file proof of insurance. Therefore, to get their licence, they have to go to an insurance company and file what is called an Ontario certificate of insurance.

That is not the pink card that you or I carry, but something separate filed by the company. There is always that record.

Mr. Breithaupt: I recognize that. I suppose the fact that a company or insurance agent has to prepare that information is—

Mr. Miles: That is an indicator of a previous claim.

Mr. Breithaupt: —an indication that they know about the previous situation, whatever it may have been.

Mr. Miles: Exactly.
9:30 a.m.

Mr. Breithaupt: Thank you very much.

Mr. Chairman: Mr. Swart?

Mr. Swart: I did not want to let that go by without making the point to the minister that there are three or four provinces where this is not the real problem it is here.

In the provinces of Manitoba, Saskatchewan, British Columbia and, perhaps to a lesser extent, Quebec, you have to buy your way into the public auto insurance system and you cannot get your automobile licence without having insurance. You buy it at the same time and for the same length of time and so that problem does not exist to anything like the same extent it does here.

That is one of the advantages of the public automobile insurance system. Of course, in most of those provinces part of the insurance premium is also attached to your driver's licence so that the people who are on the road with a driver's licence and with a motor vehicle licence have insurance. That has been found to be one of the advantages of the public auto insurance system, in addition to the fact that it is quite a bit cheaper.

I want to pursue that. I suspect this govern-

ment is not about to introduce a public auto insurance system like they have in those provinces.

Mr. Breithaupt: I think that is a fair observation.

Mr. Swart: It takes democratic socialist governments to do that. Of course, once they are in all of those provinces, even if they get Liberal or Conservative governments afterwards, those plans are so popular they do not dare throw them out.

Mr. Breithaupt: That is worse than letting them in in the first place.

Mr. Swart: They may weaken them to some extent, but they do not dare throw them out. They have kept them in all those provinces where the New Democratic Party has initiated them.

The question I want to come to is whether it is possible or practical, even where we have private insurance, to tie the insurance either to the time of renewal of your driver's licence or to your automobile registration. Has this been tried in any jurisdictions, where you would have to have it to get the licence for your car and have it only for the period of the licence of that automobile?

I know there are problems with cancellation, etc., but if that was notified through the computer as they became aware of it and if there was legislation whereby to have a licence for the car you had to have insurance on that car, people would be notified immediately if they were losing their registration. Would that be a method of enforcement? This is a real problem, as we all recognize. Compulsory insurance has helped.

What is your estimate? Are there 200,000 cars without insurance? Is that too high? What estimate do you have at present? Would tying the insurance to the registration be possible?

Hon. Mr. Elgie: Would you comment on that, Murray, and would you also comment on the erroneous statements that have been made about lower premiums with compulsory insurance? I do not think anybody really takes that too seriously.

Mr. Swart: They sure do. The Liberals and Tory governments do. That is why they do not change it.

Mr. Cassidy: Not even Sterling Lyon was prepared to change it.

Hon. Mr. Elgie: Those who look at the facts will not agree with that. But looking at the facts is not a problem you usually have.

Mr. Cassidy: You say your Conservative

colleagues never look at the facts? I agree with that.

Hon. Mr. Elgie: I am saying you do not. Go ahead, Murray, in your unbiased, apolitical way.

Mr. Swart: As a civil servant, he should be unbiased.

Mr. Chairman: Of course he is.

Mr. Swart: The minister may have some influence on him, but we will not—

Hon. Mr. Elgie: Not very much.

Mr. Swart: I am glad to have that in Hansard. You are probably better off.

Hon. Mr. Elgie: You are safe, Murray.

Mr. Thompson: We do have in Ontario what is called a self-verification program. A number of years ago you used to have to produce your pink card at the time of renewing your licence. We do not now require its production, but we do require verifying on your application for a licence renewal that you have that insurance. It is a self-verification system.

We are aware that Prince Edward Island tried at one time to tie in the insurance with the licensing, but got engulfed in paperwork and the system lagged and lagged. It was not very successful and did not produce any more result at the end.

Mr. Swart: Was it not some time ago, though, when computers were not so readily available that PEI tried it?

Mr. Thompson: How long ago was that, Ernie?

Mr. Miles: It would be slightly before Ontario went to compulsory insurance. Not only PEI and Newfoundland tried it, but some places in the United States also. It just ended up in a paper war because people were changing companies, as Mr. Thompson indicated earlier. If one gets 30 to 40 per cent of people changing companies, as soon as one changes—

Mr. Swart: Another advantage in one way, of course, of public auto insurance.

Mr. Miles: Some of those provinces are still operating unsatisfied judgement funds to take care of the ones who slipped through the cracks. That will not get away from the problem of someone who will drive while he is under suspension.

One still comes back to the fact it is not illegal; one can get his licence today for his car and his policy lapses tomorrow. One cannot

stop a person getting a licence, because he has insurance today, yet he can cancel it tomorrow.

The only thing that becomes illegal is to drive or for the owner to allow that vehicle to be used while its insurance is cancelled. Short of going around and picking up licence plates, which would be a horrendous deal—

Mr. Breithaupt: They tried that in Massachusetts.

Mr. Miles: They tried it in New York. I think they had to send around two or three policemen to pick up the licence plates.

That is the problem. One goes around to pick up the licence plate and the man can say: "I am just arranging for insurance. I do not want to drive this month, but I will be getting my insurance next month." In effect, one harasses the law-abiding citizens who have the insurance to try to catch the few who deliberately flout the law, and they will always find a way to flout the law.

Mr. Swart: You say few. What is the estimate now?

Mr. Miles: I would say two per cent or less. That is just an educated guess.

Mr. Breithaupt: We had thought there were about eight per cent who did not have insurance coverage and that compulsory insurance would hopefully—by education and by "reduce impaired driving everywhere" and other programs—cut that in half. I am pleasantly surprised it is slightly lower than the expectation, but that is a good sign if the educated guess is accurate.

Mr. Thompson: I would be comfortable with about four per cent, because there is always a float out there.

Mr. Breithaupt: It could have been my presumption, but I hope it becomes less.

Mr. Thompson: It could be that low, but to get an accurate check we would have to stop the whole system at any given point, which we cannot really do.

Mr. Swart: We are talking roughly about 150,000 vehicles.

Mr. Thompson: The interesting aspect of it is that the number of claims against the motor vehicle accident claims fund is roughly one tenth of what it was at the time compulsory automobile insurance was put into effect in 1980. I think our barometer is that claims level. As long as we are keeping it around that, we are

assisting in keeping the enforcement aspect under control.

Item 4 agreed to.

On item 5, companies:

Mr. Breithaupt: There is one question I would like to raise. That is the matter of over-the-counter incorporation of companies. I would like a brief comment as to how that has been developing, and what the prospect is of offering the service in other parts of Ontario.

9:40 a.m.

While the minister gets a lot of other letters, he may recall one that at least filtered down, I am sure, to the companies branch from Mr. Peter H. Sims, QC, president of the Waterloo Law Association.

There was a suggestion made that consideration be given to establishing an office, perhaps in Kitchener, but certainly within our area generally—it could even be in Brantford, I suppose, if Mr. Gillies insisted—that would have the opportunity of having this over-the-counter incorporation, with the various registry offices that exist. With a framework in each county, will it be possible to have at least one in an area of, perhaps, three or four counties, as the expected place where this program may develop?

If you could briefly report on that, I am sure my colleagues in the law profession in Kitchener who are particularly involved, and those generally in other cities and smaller communities, would appreciate knowing what plans are under way to expand this system if the bugs are out of it now and if it is a practical one to deal with.

Hon. Mr. Elgie: Ted, perhaps you could give us an idea of how many counties or areas have this over-the-counter incorporation, how many we have added, for example, in the last year and the sort of areas we are looking at now.

Mr. Wells: We have opened two this fiscal year. We hope to open one more in the spring of this fiscal year.

Mr. Breithaupt: Where are they and where will they be?

Mr. Wells: The newest one we are looking at this year is Hamilton. We now have offices in London, Windsor, Ottawa, Peterborough, Kingston, Thunder Bay and Sudbury.

What we tried to do at the start was to go the furthest distance from Toronto. We also had to consider the amount of business activity we might get. We cannot go to an office where

there might be one incorporation a month because the work just would not be there.

We are looking at the program; it seems to be working pretty well. There are costs involved. We have to share our costs with the property rights division because it supplies the people, so it is not something we can do holus-bolus in a great rush. We also have to train the people.

Certainly, Kitchener is one area we are looking at. I cannot say we are going to go there tomorrow or any such thing, that is up to the minister decide, but it is certainly being considered.

Mr. Breithaupt: It would seem that if you have London and Hamilton covered, that certainly is a good step forward. From the list you have given us, it would seem that about the only major area of population in which the service is not fairly readily available is Kitchener-Brantford-Cambridge. I would encourage you to consider an office in that area which would probably—again from the list you have mentioned—pretty well complete the coverage of the larger commercial and business communities in Ontario.

Mr. Wells: Yes. We are also looking at a bit further north as well, to give coverage up there.

Mr. Breithaupt: That is most important for the convenience it would provide, even though the numbers of incorporations may not be as many. It obviously is important to extend those services into northern Ontario in as practical a way as you can.

Mr. Wells: We do not save any money doing it. It is really a service to the public.

Mr. Breithaupt: I recognize that, particularly in the northern communities, where there may not be as many incorporations. It would certainly be a convenience to the lawyers whose clients have to pay for the travel time and other services, to have an office within Waterloo region or close by, and I would encourage you to give consideration to an office or a location in the Kitchener area, part way along the Kitchener-Brantford axis, perhaps in Paris, or something like that.

Interjection: Or Simcoe.

Mr. Chairman: What is the difference?

Mr. Gillies: About 30 miles.

Mr. Breithaupt: They elect Tories; we always elect Liberals. That is one major difference.

Of course, now that Mr. Barlow has the Ontario Centre for Advanced Manufacturing—CAD/CAM, I do not think he needs anything

more down there. They have the regional assessment office too, but we will not go into that one. In any event, I commend the idea to you. I think it would be useful and I hope that as the net of these locations expands you will consider our area.

Mr. Chairman: Thank you, Mr. Breithaupt. Is there anything further on item 5?

Mr. Cassidy: I would like to ask a brief question. Perhaps you can tell me if there is any essential difference between private companies incorporated under Ontario legislation and those incorporated under federal legislation.

Mr. Wells: Now that the new Business Corporations Act has come into force, as of July 29, the two acts are very similar. There are differences in thrust in certain areas, but in essence they are very similar.

Mr. Cassidy: Is there a substantial difference in the type of companies which are incorporated under federal as opposed to Ontario legislation?

Mr. Wells: In many cases I think it comes down to whether you are closer to Ottawa than Toronto, if you happen to be in Ontario. I suppose we incorporate 10 times the number of corporations Ottawa does. The federal people would like only large, cross-Canada corporations to be incorporated under their laws. They are not interested in the mom-and-pop grocery store which is incorporated. They would rather we did that.

Mr. Cassidy: Because of the numbers, Ontario will have as many of those rather large companies as are under federal registration. Is that right?

Mr. Wells: We have our share.

Mr. Cassidy: The reason I ask is that I understand one of the major differences is in disclosure requirements which now exist under the federal law. As I understand it, there is a certain threshold—is it \$5 million or \$2 million?—in sales before they require essentially a publication of the profit and loss statement and balance statement, an annual report every year. Is that right?

Mr. Wells: It is more like \$10 million and, yes, the feds do require that and we do not.

Mr. Cassidy: Do any other provinces require it, or are the feds unique at this point?

Mr. Wells: I cannot answer that with certainty. Several of the prairie provinces have followed the federal model, but whether or not

they included that disclosure specifically I cannot tell you.

Mr. Cassidy: Perhaps I could ask the minister. Are any studies under way to find out what terrible things might happen to capitalist free enterprise in this province were Ontario to follow the federal model and require disclosure for significant economic entities in Ontario to be required to reach the same standard of disclosure which is required under the federal act?

Hon. Mr. Elgie: Yes, as I think I mentioned earlier in my response to some critics' remarks, we are currently working on a paper with respect to disclosure and beneficial ownership as well, and we hope my colleagues will agree that might be put out as a green paper for discussion with whatever flows from that. I think it is an area we have to look at.

Mr. Cassidy: Is it the government's intention to impose a measure of disclosure or to require a measure of disclosure on private companies that are above the mom-and-pop size, above a certain size?

Hon. Mr. Elgie: At this stage I cannot go beyond what I have said, namely that Mr. Wells and the deputy are working on a paper dealing with this area of disclosure. It will be discussed with my colleagues and whatever policy evolves from that will be announced.

9:50 a.m.

Mr. Cassidy: This has not been accepted up until now, but are you now accepting the fact that since companies of a certain size do enjoy the privilege of incorporation, and since it is increasingly accepted that these economic organizations have obligations that go beyond the obligation to their shareholders, they have obligations to customers, to suppliers, to employees and to the community as a whole, and that as a consequence of that it is time now, if it was not time a long time ago, for these companies to at least provide a certain modicum of information about what they do, rather than being privileged with the excessive amount of secrecy they enjoy now.

Hon. Mr. Elgie: Again, I guess no matter how many times or ways you ask the question the answer is still the same. I have an interest in that area, an internal discussion paper is being prepared and what flows from that will be, if anything, policy I will be prepared to discuss with you when that stage is reached and not before.

Mr. Cassidy: Will that internal discussion paper be published as a green paper and made public?

Hon. Mr. Elgie: Let me go through it again, and again the answer, unfortunately, will be always the same: it is being discussed, it will be discussed with my colleagues, and whatever agreement is reached, it would be my hope that a green paper would flow from it. That is still the answer.

Mr. Cassidy: I see. In other words, nothing will be open for public contribution or input until you and your colleagues have decided what you think ought to be done. Is that right?

Hon. Mr. Elgie: It would not be a great surprise to you if that is the process.

Mr. Cassidy: You have been doing it for 40 years, why change now?

Item 5 agreed to.

On item 6, business practices:

Mr. Swart: Mr. Chairman, if possible, I would like to take this as a group and perhaps we can discuss the consumer matters under this, rather than going item by item, if that is agreeable to you. I want to discuss generally the philosophy of price-setting and hope the minister will enter into the discussion.

It comes as no surprise to anybody here that I and my party have considerable concern about the inflation restraint program, particularly as it relates to prices. Nothing whatsoever is being done now about prices. We have discussed this in the House to some extent.

In last year's Inflation Restraint Act, there was some authority over administered prices. This has been totally removed and the Treasurer admitted this in the House the other night. He said I was absolutely correct in my interpretation of the act that even if the minister and the government want to intervene on administered prices they have no power to do so.

They could give themselves power, but the limited power they had under the previous legislation has been removed. There is no authority left whatsoever to intervene. I think that is a factual statement. If the minister wants to disagree with me at this time, I would be glad to stop right here.

If the Inflation Restraint Board feels there has been an unjustified price increase, it can report to the minister and ultimately be reported to the Lieutenant Governor in Council. Apart from any provisions that exist in the Ontario Energy Board Act or any other acts, there is no power now for the government to intervene.

Repeatedly, when we have asked the government, particularly the Ministry of Consumer and Commercial Relations, to intervene on price increase, they say they have no authority to intervene.

It has now been documented by the Attorney General (Mr. McMurtry) that there is the power to give themselves authority but there is in fact no authority to intervene.

In the debate the other night in the House, I made the comment that it seems to me there are only two ways of having some control over prices—I am not going into any great length here to try to document the need because I think it is apparent—and one is to have full and free competition, which in most areas at least is a desirable way. Generally speaking, the consumers get adequate protection through that method. The second way is by government intervention.

This brings me to the first point I want to make. We all know that the federal government for the last 12 years at least, and I guess for a longer period than that, has been trying to toughen up the combines legislation. There have been repeated statements by ministers and senior staff that Canada has the weakest competition laws in any of the developed countries in the world, that the conflict with the fact that we do have weak laws puts our consumers in this country in greater jeopardy from lack of competition than most other democracies in the world.

Certainly the United States is far ahead of us and has been for a long time. If it is necessary to document this any further I will certainly be glad to do it, but I have done that here in the past. Each time the federal government proposes to strengthen the anti-combines legislation it is shot down by a massive campaign by the Canadian Manufacturers' Association and the others who control the economy of this country, sometimes abetted by the provincial government.

The most serious attempt to bring in tougher competition legislation to deal with the void that exists in this was by Mr. Ouellet in 1981. That was effectively torpedoed by the consumer ministers' conference in Quebec in the fall of 1981, when the then Minister of Commercial and Consumer Relations of this province, the member for London South (Mr. Walker), presented a 15-page report in which he strenuously opposed and objected to any attempts by the federal government to strengthen the competition legislation.

In that 15-page report, that speech he gave

then, not once did he mention the need for competition. I am sure the present minister has read it. It was one of the most right-wing statements and anti-competitive statements I have ever seen by an elected public official with that kind of responsibility. He made statements to the effect that even if one corporation had 80 per cent of the market, he did not think that adversely affected the consumer. He said parallel pricing should not be considered inappropriate or improper. From that time on, the proposal by the federal government to proceed with the legislation was weakened until nothing had been done.

As the minister is aware, we have now seen as a proposal in the speech from the throne this time that the federal government is going to try once again to introduce legislation to strengthen our anti-combines legislation and our competition laws. I do not know what form it will take this time, but there may be only one general route they can go. That is to do what has been done in the United States and make it illegal to have tied selling, collusive dealing and market-resistant practices. Even too large a share of the market means that competition really does not exist to the fullest extent.

10 a.m.

I would like some philosophical comments from this minister at this time on where he is going to stand on new anti-combines legislation by the federal government. I want to know what his philosophy is. I think this minister may have more concern about the value of competition than the previous minister did. I would hope so.

He certainly seems to be a bit more progressive than that minister was. I am not sure whether deep down inside he has that great admiration for the Thatcherites and the Reaganites of this world that he does not seem to on the outside. Some of his actions since he has been minister in certain fields have impressed me somewhat favourably, in particular his actions on the Re-Mor issue, which of course is unrelated to a large extent to what I am discussing at the present time.

But perhaps some recent things that have happened here would convince him that he should be supportive of tougher anti-combines legislation. There was a report in the *Globe and Mail* about Bell Canada. We have moved a little way, I hear, in this nation, to perhaps break up the rather extensive monopolistic practices of Bell and the vertical integration of Bell Canada. But at the present time, because of monopolies

that exist in so many areas in which Bell has control, there is even money coming in from the United States, where they are doing a much more effective job in breaking up the Bell monopoly.

There was an article by George Linton on Bell Canada Enterprises in the *Globe and Mail* on November 30, not very long ago. The headline reads: "BCE Rings Up 75-Cent Gain, Posts Strong 16-Month Rise." The article says: "With a final spurt to \$33.37 yesterday, shares of Bell Canada Enterprises Inc. of Montreal have doubled in only 16 months, the strongest price rise for Canada's most widely held issue in at least 20 years."

It goes on: "Some analysts believe BCE stands to profit handsomely from the AT and T breakup," that is the American Telephone and Telegraph Co., "while BCE's operating companies in Canada remain sheltered from the competition facing former Bell System companies in the United States." Here, once again, we are away behind the United States in ensuring that competition exists.

This morning's paper points out that bank profits in Canada have gone up to a massive \$1.89 billion. The minister would have heard me predicting in the House two or three times earlier this year that they were going to go up to at least \$1.85 billion and it looks as if I was just about on. That is up from \$1.5 billion last year, \$1.7 billion in 1981, \$1.237 billion in 1980, \$1.105 billion in 1979, \$976 million in 1978, \$732 million in 1977—a tremendous increase in six years. That is two and a half times the profit.

While this, of course, is affected by government policy, there has been no attempt on the part of the federal government to intervene and to determine the degree of collusion that there is between the banks. There is something immoral, and I use that word advisedly, about bank profits going to these levels, never having a recession, never carrying their share of the load in these tough times.

Farmers are going bankrupt, tough policies are being applied against the farm community and against home owners with regard to mortgages, banks were refusing to renegotiate the high interest rates on mortgages. The rate was 18.5 or 20 per cent on those that were taken out two or three years ago.

Although perhaps only one part of that pertains to competition legislation it is a very major part. This government and the federal government should be doing much more to ensure

legislation whereby farmers can renegotiate their long-term loans and their mortgages, and home owners should be able to do the same thing. I realize that does not come under competition legislation, but the very lack of competition among the banks, the dominance of the few banks on lending policies and the fact they go up and down together, should be investigated.

I am asking the minister if he would like to share with this committee some of his philosophy about toughening up the competition laws federally, realizing it is totally a federal matter, but realizing the Minister of Consumer and Commercial Relations of this province took the lead in 1981 to shoot down the tougher legislation. I would like to know where he stands on this. I do not think that is an unfair question and I am sure the minister will not consider it so.

Hon. Mr. Elgie: I appreciate the advice of the member for Welland-Thorold that I should read my predecessor's speeches carefully and diligently and adopt the sound thinking that went into those. I will certainly give that—

Mr. Swart: That is not what I said. I was rejecting that; what I was proposing—

Hon. Mr. Elgie: I will certainly take his advice, as I always do, and review those speeches and give them consideration. On the issue of the government's own administered prices program—

Mr. Swart: I am going to come to that.

Hon. Mr. Elgie: You did already, in some detail I might say. It is true that, under the previous act, the administered prices committee did have somewhat greater authority in that it could refer matters to the Inflation Restraint Board. It did, indeed, refer one of the gas company issues to the Inflation Restraint Board. Then the cabinet, on a report from that committee, had the power to raise, lower or approve those prices.

However, I disagree with him that the present act will give that committee no fundamental power. It is true that the power with respect to referring to the Inflation Restraint Board and the power of the cabinet, as specified in the statute, to raise, lower or approve is not there. However, I suggest the mere fact that ministries are still required to present price increases that exceed five per cent to that committee, and with the committee bound then to report to cabinet with its advice, where the involved cabinet ministers will be present and subject to the

discussions that take place, will have considerable weight.

I do not agree with him that the present act as proposed and as passed last evening, I believe it was, will be without teeth. I think there will be considerable impact on prices as a result of the process that is outlined there.

Mr. Swart: Are you saying there can be clout, that there will be moral suasion? Would you agree with me there is no power under that act for your ministry to order a rollback of prices?

Hon. Mr. Elgie: There never was power for a ministry to order a rollback. The situation was that, if there were price increases proposed of over five per cent, it was required they come to the administered prices committee. That is still so. That committee could then consider them and make a recommendation to cabinet. Cabinet, on the basis of that, could either raise, lower or approve.

That power to raise, lower or approve is specifically not stated and the role of the committee will remain essentially the same. The recommendations remain intact and the process by which they will be enforced will be one of moral suasion, one may suppose, at the cabinet level. I suggest that still gives the process considerable clout.

Mr. Swart: But no power.

Hon. Mr. Elgie: No statutory power.

Mr. Swart: You do not have it under any—

Hon. Mr. Elgie: I know you would like a lot of these price control things to be in statute, but I think they will remain a very effective force.

Mr. Swart: Would you give me an example of the way moral suasion has been used previously to roll back prices, so we have everything in perspective?

10:10 a.m.

Hon. Mr. Elgie: We will know as soon as the first issues come before the administered prices committee which will have to use that power.

Mr. Swart: In other words, you are telling me you cannot give me any examples over the years of where the government used any moral suasion to roll back prices.

Hon. Mr. Elgie: I will look at it, if you wish, and review it and give you the kind of report I think you want.

Mr. Swart: It will not be the kind of report I want because I know you have not done it.

Hon. Mr. Elgie: In any event, we can then get on to the issue of competition. I think what the

previous minister was commenting on was not a proposed bill but rather some suggestions flowing from the federal government with respect to competition change. I think he was saying the changes proposed did not adequately reflect the differences that exist in this country with some of our counterparts, particularly our southern neighbour.

We are not a large consumer-based province or country. We do not have the population others do and we may have, and I think do have, needs that are different from other countries. It is absolutely essential, if we are to remain internationally competitive, for example, that our competition laws reflect those needs. If we are to remain competitive and still have viable industries with small populations, I think that has to be reflected.

To be more specific about it, the present federal Minister of Consumer and Corporate Affairs, the Honourable Judy Erola, did indicate to us at the federal-provincial meeting, held in the Yukon in September, that she would be proposing changes to the competition law and—correct me if I am wrong, Mr. Crosbie—my recollection is she also indicated that the draft bill had even been discussed with interest groups within the community.

It is with regret I have to tell you the draft bill has not been shared with us nor discussed with us. I find it a little strange that private sector groups have had access to the proposals and we have not.

Mr. Swart: It could be the position the previous minister took; they want to get it launched before it is shot down.

Hon. Mr. Elgie: I would not want to suggest you have any devious thought processes that lead you to that conclusion. Nevertheless, I am stating the facts as they are.

In any event, it is my mandate, with my colleagues' approval, to take part in meaningful discussions when and if we have a bill in our possession, but it will be a discussion that keeps in mind what is determined in the light of those proposals. We have to keep in mind some of the criteria I have mentioned, namely, we are not the same as our neighbour to the south, we do have a much smaller population base and we do have special needs with respect to encouraging industries that are competitive internationally, which is rather difficult in a country this size.

Mr. Swart: Could I interject once again before you go on to another subject? Do you or

do you not believe there is a need to strengthen the anti-combines legislation?

Hon. Mr. Elgie: There may well be some need for changes in it, but my mandate is to discuss changes that are proposed and not to elaborate on a government position on a piece of legislation and a policy process that is not part of our provincial mandate at this time, and will not be until it becomes a piece of legislation we are evaluating.

Mr. Swart: I want to pursue this a little further. You said "discuss changes," but my question was whether you think the anti-combines legislation needs to be strengthened.

Hon. Mr. Elgie: What I said, and I will repeat it—no matter how many times you ask it, it will still be the same answer—was there may well be areas of it that need to be reviewed and changed. I cannot comment on what changes we would agree with and what recommendations for change as a result of the statute we might propose until I have that statute, nor am I authorized to get into such discussions.

Mr. Swart: I will try one more time. You talk about "reviewed and changed." The word I used was "strengthened." You must, as a minister who now has substantial experience in this ministry, have some opinions about whether the federal legislation is adequate.

Hon. Mr. Elgie: "Substantial experience." I like those words.

Mr. Swart: I want to know whether you think there is a need for strengthening.

Hon. Mr. Elgie: Again I will indicate what I did before. There may well be some need for changes. Presumably whatever changes are proposed would be to strengthen the bill. We will be prepared to take part in those discussions.

Mr. Swart: Tell them to use the word—

Mr. Mitchell: What was the answer to that question?

Hon. Mr. Elgie: The answer was that I have had substantial experience and will continue to substantially review substantial matters that are put forward by way of legislative change.

Mr. Breithaupt: I think it is a definite maybe.

Mr. Chairman: Gentlemen, I think we will carry on.

Hon. Mr. Elgie: While I hold no brief for Bell Canada, I find it rather strange actually that you attack its so-called monopolistic practices when it is an industry which has its prices monitored and controlled by a federal body. That is exactly

what you suggest is necessary in the absence of competitive prices. Whatever you may feel about it, as you know, it is the mandate of the Minister of Transportation and Communications (Mr. Snow) to make known to the controlling boards federally whatever views the government feels on those issues. We will continue to take part in those processes.

As I indicated, I think it was last year when I read into the record a letter from the Minister of Transportation and Communications to the transport commission—I forget the name of the board—indicating many of the concerns we had with our proposals.

I do take a little bit of umbrage with your broad comments when you were dealing with banks about the issue of renegotiating high interest rates on mortgages. As you know, this ministry has played a significant role in attempting to mediate disputes between mortgagees and the mortgagors and I think with a great degree of success. We cannot overlook the fact, my friend, that many of the financial institutions that had problems during the past two years, had those problems because they failed to match their incoming money with their outgoing money.

I find it rather unrealistic to suggest that one should be prepared to force people to renegotiate mortgage rates arbitrarily without imposing the same obligation on them to renegotiate the rates on guaranteed interest certificates. I have never heard you suggest that people who deposit money and get a return of 16 per cent should retain that income, while those who have mortgages at 18 per cent should have it negotiated down to whatever the current rate is.

If you want to say that both should happen, then you should say so. But if you do not mean it and you do not mean to say that, then I do not think you should say that one should put those institutions in jeopardy, as they were in jeopardy through economic factors unrelated to that because of a mismatch of funds. We all know what happens when there is a mismatch of funds.

Although I have great sympathy for those people and although we have been very successful in persuading some renegotiation of mortgages, I do not think that as a general principle it would be considered sound financially to say people should arbitrarily be forced to renegotiate their mortgages downward, unless you also have the courage to say those who invested in guaranteed investment certificates and RRSPs and whatever else should also be given the

advice that they also will arbitrarily have the interest they are receiving reduced so a match can be obtained. I do not hear you saying that.

Mr. Swart: The minister knows very well that the situation is changing. It has changed quite dramatically with regard to tying money in for a long term, where there were 20-year mortgages at fixed interest rates. That is a thing of the past.

Hon. Mr. Elgie: A thing of the past.

Mr. Swart: That is a thing of the past but there are still people now who are caught. I would not disagree with you particularly about the trust companies—banks never got caught in that bind because they have the power to—

Hon. Mr. Elgie: They never got in that bind because they have different powers with respect—

Mr. Swart: That is exactly what I am saying.

Hon. Mr. Elgie: —to how they may write off their losses.

Mr. Swart: Not only write off their losses; they have the power of creating more money in effect.

Mr. Breithaupt: The difference is having mortgages as collateral security to demand notes, which is an entirely different circumstance from a commitment for a traditional three-, four- or five-year mortgage, which has been the practice throughout the 1970s. It is true they have a different opportunity.

10:20 p.m.

Mr. Gillies: I cannot disagree with the point the minister made, but it is a continuing problem. I know in my riding, when the members of a family with a three-year mortgage at 19, 20 or 21 per cent go to their trust company, they find that in order to renegotiate down to 12 per cent, some of the penalties are, by any standard, excessive.

Mr. Swart: They are equal to the difference in interest.

Mr. Gillies: When a person who is struggling with a mortgage is being faced with a bill of \$7,000, \$8,000 or \$10,000 to negotiate down, surely there is some way around it. I know the feds were talking about some sort of interest insurance scheme which may help people in the future, but we still have a lot of people in a bind right now.

Hon. Mr. Elgie: At the time they did that, there was no prospect of immediate reduction. They had immediate needs. I do not say I like it; I do not think anybody in the room likes it. All I am saying is that to take any other step by

imposing obligations on them in the absence of some other public policy, such as the mortgage insurance issue, is really to condemn them to a mismatching of their funds and produces the very problems we have tried to correct in the credit unions.

Mr. Gillies: If I might be philosophical just for a moment, because I know there are no easy answers to this, I will never forget the man who came in to see me in Brantford, probably about a year ago. He pointed out to me that the high interest rates had forced his mortgage right up through the roof. He lost the house. He later learned that the new purchaser received, of course, \$8,000 in various government grants and loans to help with his mortgage.

Mr. Breithaupt: A new home buyer.

Mr. Gillies: A new home buyer. He got, of course, a much lower-rate mortgage because the rates had dipped at that point. The former owner said: "I lost my house because the mortgage was getting to be something like \$600 or \$700 a month. There is a new chap in my house paying \$300 a month. If it had been \$300, I could have kept my house." It is a very difficult problem, but there is something wrong there.

Hon. Mr. Elgie: I do not disagree that it is a difficult problem, but I do not see that the answer is to say, "We will lower the interest rate," unless we are also prepared to say to the guaranteed investment certificate holder, as an example of one type of investment package, "We will also reduce your interest so there will be a matching of funds." If you want to say that, say it and let us state that as a public policy and explore it, but I do not know many people who put their money in GICs who would willingly want their interest rates reduced.

Mr. Gillies: I appreciate it is not an easy one to solve. I have to think part of the answer is some sort of insurance scheme.

Mr. Swart: I have on my desk now letters from 10 or 12 people—I think one or two of them are from outside my constituency—who are in this bind and I am sure other members have this, too.

I wanted to point out that the situation is substantially different now from what it had been before. We have got away from these longer terms. We find, as we do now, that financial institutions, particularly banks, are in a financial position where it would be much less a penalty to them to be required to renegotiate than it is a penalty on those people who in fact are losing their homes.

I suggest there should be legislation. There is provision constitutionally for both provincial and federal governments to get into this, and the federal minister is proposing legislation. In fact, there is legislation on the books at the present time with regard to renegotiating with a three-month penalty. It is limited.

There was one case, as I am sure we know, that was taken to court and they won. They had to pay only the three-month penalty. But that has to be within a very small range of circumstances. Surely that can be broadened. The federal government is proposing that it be broadened.

What I am saying to the minister is that, because we are in a very different situation now from the one we were in when the trust companies and the credit unions got into their difficult situation—and I recognize there was difficulty—surely now is the time, with the new circumstances, when we should be revising the legislation and be revising the rules so that people are not caught in this bind and there is relief provided for those who are.

None of these solutions is easy—I am the first to agree with that—but right now there is reason for government intervention, new government laws, to require the refinancing at least of many of these mortgages and long-term loans which are penalizing the farmers, home owners and small businesses and bringing many of them to their knees.

Mr. Breithaupt: But the member recognizes that if you do that, the five-year mortgage will be clearly a thing of the past.

Mr. Swart: Maybe that is what it should be.

Mr. Breithaupt: The swings that would occur in that situation may be every bit as difficult to that person in two years. If interest rates are back at 17 per cent, at least they would only have to pay it for one year. Next year maybe it will be 15 per cent or it could be 19 per cent. But why get into that swing as opposed to the longer-term commitment? Then there will be a price to pay for it.

Mr. Swart: Maybe what we need now is ad hoc legislation to deal with a very critical situation. The result of that, as the member says, could well be shorter-term mortgages. I think it is worth that risk, because the number of people who are caught in this bind, particularly farmers and home owners, is very high. I talked to a woman last night whose payment is \$700 on a very moderate home. She is going to go under within the next six months unless something is

done. She called in desperation and wondered whether anything could be done because she cannot pay it. She is hooked into a 20 per cent mortgage.

Mr. Breithaupt: For four or five years?

Mr. Swart: Five years.

Mr. Breithaupt: The other side of the coin is that those moneys will match with somebody's mother's guaranteed investment certificate at 18 per cent.

Mr. Swart: Many of the credit unions in our areas have renegotiated. They are in a better financial position and they are renegotiating these mortgages. If some of the banks and trust companies are not willing to do this, then I think it is time legislative action needs to be taken against them. We may have to set up an arbitration board to deal with this, but some action has to be taken. We just cannot see all of these people losing their homes and these farmers going under.

Mr. Breithaupt: Although in the farmer's position, one could expect that more of that is tied up as a collateral commitment to bank loans. Therefore the interest rate on those would be varying somewhat with the current interest rates now.

Mr. Swart: The farmers' credit union, for instance, is still at 16 to 16.5 per cent—

Mr. Breithaupt: It is still very heavy, yes.

Hon. Mr. Elgie: I do not want to ask the member for the names of the credit unions, but I would suggest that is the very thing that got them into trouble before. They were lending—

Mr. Swart: Of course. They are short-term now—one year.

Mr. Breithaupt: They will all be short-term from now on.

Mr. Gillies: Yes, but this is the point I want to make. Why is it—at least the last time I checked in this area—that one can still get longer-term fixed interest rate mortgages in the United States? Why can they do it there but we do not seem to be able to do it here?

Mr. Breithaupt: Because of the maximum lending law in New York state, which I think is eight and a half per cent. As a result, many of the savings and loans institutions are in desperate straits and going under. That is what I recall.

Hon. Mr. Elgie: I think I gave figures on the number of banks and saving and loans institutions that had collapsed in the past year in the United States. Even on a per capita comparison

with this country, it is incredibly higher. It is for that very reason they did impose some maximums on the mortgage rate.

I also want to point out to my friend the member for Welland-Thorold that there is also now greater competition in the area of residential mortgages than there has ever been before. The 1969 revision to the Bank Act for the first time allowed banks to get into residential mortgages. From an institutional point of view, as opposed to that of the private lenders, there are now the trust companies, credit unions and banks competing for mortgages. Indeed, you can see that happening every day where one is offering a lower mortgage rate to get business.

On the other side of that coin, the proposals in the white paper would allow trust companies some greater leeway with respect to commercial loans to increase competition in that area as well. I think we are seeing competition in that area, but certainly no one in my party would say we welcome the fact that there are people who are heavily burdened with high mortgage rates.

10:30 a.m.

All I am saying to you is that if you want to address that issue from the perspective of a bank or trust company, then you also have to say that there has to be some way to reduce the interest rate being paid on investments or deposits that have been made in some way or another to that institution. If you do not, you are going to get them right back into the same trouble.

Mr. Chairman: Mr. Cassidy, excuse me. I have seen you. As soon as the minister concludes his remarks, I will get to you. There is no point in putting up your hand every two seconds.

Mr. Cassidy: Really?

Mr. Chairman: Yes. I am not blind.

Hon. Mr. Elgie: Another question I have is, should there be the right to negotiate interest upwards, if interest rates go up as well? I mean, if you have a mortgage at eight per cent, should there be an arbitrary right to negotiate them upward?

Mr. Swart: Mr. Chairman, if I can just deal with that issue, I mentioned that we are in a different situation now. We are getting into shorter terms; that may be the end result. Certainly, the major financial institutions have the resources behind them to know, and to do a much more in-depth study about, what the likelihood is of future interest rates. Granted, many of them goofed in years past, but they have much more in the way of resources than

the individual does. To say that the same thing has to apply both ways, I do not accept that.

If we are in a situation now where the financial institutions are making huge profits at this time—certainly the banks are in this classification, and the trust companies are improving—I cannot see why we cannot have some ad hoc legislation. Perhaps we need a tribunal to arbitrate in some cases. The New Democratic Party in Saskatchewan put this in with regard to increasing the mortgage rates when they were on the way up. There was some consideration given to whether people could afford it.

It is possible to have legislation in which applications can be made for refinancing where all matters can be taken into consideration, or reductions ordered in the interest rates, refinancing of mortgages and long-term loans to farmers and small businesses. I do not accept the minister's statement that it has to be both ways. We are in a particular situation now that has never existed before.

Mr. Breithaupt: Then who is to pay for the differential?

Mr. Swart: I am just saying to you that where that real differential exists now, where it may put a company in difficulty, if you have a tribunal, maybe it would take that into consideration. That is what I am saying.

Mr. Chairman: I do not follow the market that closely. Have you concluded?

Mr. Swart: Yes.

Mr. Chairman: Mr. Cassidy?

Mr. Cassidy: I am just a bit disturbed over some of the things that are being said, both by the minister and by the member for Kitchener (Mr. Breithaupt). It is too simplistic to maintain that the lender who put the funds forward is always going to be a widow, an orphan or someone like that whom one would want to protect. It is also too simplistic to suggest that all the funds—

Mr. Breithaupt: It could very well be the pension fund, for example.

Hon. Mr. Elgie: Many of the banks are owned by pension funds.

Mr. Cassidy: —to suggest that all the funds have been borrowed by the bank through new lending at those top rates. I think that is witnessed by a couple of things. One is the enormous increase in bank profits, which my friend Mel Swart has pointed out. The second thing is that, over the period in question, the banks were borrowing unwisely and paying too

much for the deposits. Then they were shovelling a lot of that money out into places like Argentina, Brazil and Poland.

Speaking of Canadian banks, I think there was a story yesterday saying the Toronto-Dominion Bank was in to the tune of \$2.5 billion to Latin America or for some of these shaky loans to developing countries. One of the reasons they did that was that they were indulging in practices which, frankly, one would question if done by an individual.

10:30 a.m.

I realize this is not directly the subject of provincial responsibility. However, it seems to me that the least the minister can do is to use the powers of the Legislature where individual people like farmers and home owners need protecting, and to keep the focus on what the primary purpose of bank activity is. I do not think that the primary purpose of our Canadian banks should be to make shaky loans to questionable borrowers in countries with, let us say, social systems that are very different from ours, where in many cases Canadian funds are going either to prop up autocratic regimes or to support totalitarian regimes that pay no respect to human rights at all. I have real questions about that.

Mr. Breithaupt: Surely the primary purpose of the banks is to make a profit for their shareholders.

Mr. Cassidy: It is more than that.

Mr. Breithaupt: It is not more than that at all. That is the primary purpose.

Mr. Cassidy: I would put on the record that the member for Kitchener is back in the 19th century.

Mr. Chairman: That is a matter of opinion.

Mr. Breithaupt: I am just asking you. Is that not the primary purpose of the banking system? In this day, today, is not the primary purpose of the banking system to make profits for its shareholders?

Mr. Cassidy: Even if you asked the top officers of the banks, they would probably say the first purpose of a bank is to survive. Survival would come first. They would recognize that survival includes a number of goals, such as making money and being seen as having some responsibility to the community which enables them to be as competitive and as profitable as they are.

Mr. Breithaupt: I do not think that ranks too high with most of them.

Mr. Cassidy: That is one of the problems with the system. That is one of the reasons I am in this party and not in yours. Your party and the minister's party seem to think it is the supreme goal of human endeavour just to make profits. I think that ranks far down in the supreme goal of most individuals and most of us in terms of our goals for society. The problem is, you stick yourselves with an antiquated economic ideology and doctrine and do not recognize that the primary purpose for the economic system should be to assert and support human values. The minister and his party are guilty of that as well, and that is one of the weaknesses of this ministry.

Mention was made of the credit unions and of the fact the credit unions have been more open to renegotiating mortgages that were made at excessive rates of interest. One of the reasons for that is very simple. For instance, the civil service co-op in my constituency of Ottawa Centre has recognized that when it came to a choice between some reduction in the rate of profit or return for the co-op on the one hand, and on the other hand the possibility that it would have to force a borrower to lose his home with all the implications that are involved, the co-op said, "Where we can, we will be prepared to look at the hardship cases and do what we can to prevent foreclosure taking place."

One of the tragedies of our banking system is that when it comes to farmers, home owners and people with mortgages, it has not been prepared to have that sense of responsibility.

In the first place, I think the banks have been exceedingly irresponsible, particularly in their lending to people in the farming sector. They have shoved money down their throats. They almost begged them to go and buy a new \$100,000 tractor, a new \$150,000 harvester and a barn, and those kinds of thing. Then when the interest rates came up and the farm could not support it, they came crashing in and foreclosed. It is no wonder there is bitterness out there in the farm community.

Mr. Mitchell: Where are we going?

Mr. Gillies: It takes me back to first year economics. I am expecting an exam at the end of this lecture.

Hon. Mr. Elgie: I think you will do well on it.

Mr. Breithaupt: What a thing to say to your colleague.

Mr. Cassidy: I would like to ask you to comment on whether you feel there is any obligation of social responsibility or obligation

apart from profits as far as the banks are concerned. What are you prepared to do to make that a reality? There is the exam.

Hon. Mr. Elgie: I want to thank you for your economic lecture.

I do not want to say this critically because I have a great deal of sympathy for the plight of the Ottawa civil service co-op, for example, but let me tell you—and if you do not acknowledge this, I will have to question your value system seriously—they were intent on survival. That is exactly why they did not want to take part in a group process that was involved in trying to salvage those brother and sister credit unions that were in trouble.

You know that. You know they saw their own economic survival as primary to their members, and they did not feel it was appropriate for them to take part in a grand scheme whereby they all contributed to the survival of the whole movement.

10:40 a.m.

Mr. Cassidy: They were being asked to bail out a movement which they had joined under false pretences six months before.

Hon. Mr. Elgie: They were asked to bail out a movement that was lending money on mortgages at rates which were not compatible with what they were paying on the money they took in. That was the problem.

Mr. Cassidy: No, I am sorry. They were being asked to pay for mistakes of an organization which they had not even been a member of when those mistakes were made. You know that it was the credit unions—

Hon. Mr. Elgie: In any event, I respected their plight because they did have problems as all of them did. All I am saying is that their primary aim was survival of their own institution and of their own members.

Mr. Cassidy: The reverse of that is, are you prepared to listen to the plight of small home owners who got themselves into a jam and were faced with the loss of their homes?

Hon. Mr. Elgie: To say we are not is just so incredible that I do not know how to respond to it. We have been able to successfully mediate a very large number of situations where the institution involved was able to facilitate a change in the rate of interest. Where it can be done, we are mediating and we are achieving reasonably good success in it, but I cannot accept that there should be some arbitrary

process which says they shall do this and shall not do that.

When you suggest that governments should take public money and get into some sort of salvage process, that is another issue; it is an issue we do not think is one that is appropriate for government to be doing with public money.

Mr. Cassidy: You are saying you do not think that government has any responsibility?

Hon. Mr. Elgie: No, I did not say that. I did not say that at all. And I am not going to get into a discussion about how the banks operate in this country. However, I would also say to you that if I am correct in what I have been told by some of the senior bankers—and I do not approve or disapprove in any sense of what they did—some of the loans they made to other countries were made for public policy purposes directed from federal government initiatives.

You may criticize that and you may say we do not have any obligation to other countries and the banks should not have been involved in doing those things. That is fine. If that is what you say, then I accept that. You do not feel they were doing the right thing in lending that money.

Mr. Cassidy: I am not so sure many of those multibillion-dollar loans to places like Argentina should really come under that particular category.

My question to you, though, is that you—not just your government, but you personally in your role as Minister of Commercial and Consumer Relations—do have an important role in terms of helping to set the tone of the expected obligations of large economic entities like the banks.

Perhaps I can therefore repeat my question to you. Do you feel the banks have any obligation in a social sense beyond their desire to make profits? If so, what is that obligation? Could you define it? What kind of leadership are you prepared to provide in terms of indicating to the banks what is acceptable behaviour and what is not?

Hon. Mr. Elgie: First of all, I have to agree that one of any lending institution's primary objectives has to be its own survival for the benefit of its shareholders, be they credit union shareholders or shareholders of any kind. But I have also said on occasion in public that it is clear they also have to have in mind giving the consumer a fair deal. I have no problem in saying that.

I just cannot accept some of the things you

are saying, though. First of all, we have endeavoured to improve competition in the area of mortgage lending, as has the federal government through its initiatives in the Bank Act. We are now moving to improve competition in the area of commercial lending through our proposals in the trust company area. I think that indicates an appropriate initiative by government.

Mr. Philip: I do not want to prolong the debate on this issue very much farther. I simply want to ask the minister whether he feels it would be in the interest of the province for the government to move—I recognize it is not directly under his ministry but it does affect the topic under discussion—in the way in which the Alberta government has moved in expanding the provincial savings offices?

I do not know what it is now, but a couple of years ago that particular government had \$1.2 billion out on loan to farmers and home owners in mortgages. If nothing else, at least it made some risk money, or investment money if you want, available to farmers.

Here in Ontario, your government changed the legislation in 1919 when it got back into power and restricted the lending power of the Province of Ontario Savings Office. You have still refused to move to expand that power. Indeed, I believe the amount of savings in the Ontario savings office is down in the last couple of years.

Have you discussed this in cabinet? Have you, as a minister who has some interest in this, gone to your colleagues and said that perhaps the act should be changed so the Ontario savings office could get into the lending business?

Hon. Mr. Elgie: As you know, that particular legislation falls under the Minister of Revenue (Mr. Gregory).

Mr. Philip: All right, I understand that.

Hon. Mr. Elgie: Whatever discussions take place will take place on initiatives that he or the Treasurer (Mr. Grossman) recommend, and I have no comment on it.

Mr. Philip: But you, as the Minister of Consumer and Commercial Relations, concerned about interest rates, would have some comment to him in the overlapping—

Hon. Mr. Elgie: If it comes before cabinet on an initiative of that minister, then that is a discussion I will take part in.

Mr. Philip: Let me deal with something that is directly under your ministry, the Condominium Act. Have you yet examined in detail the recommendations for changes by the Canadian

Condominium Institute? Have you yet examined in detail the recommendations of the Etobicoke Condominium Association? Will we be expecting a new act, as I think you promised about a year ago. If so, when is that act coming in?

Hon. Mr. Elgie: I do not recall promising a new act.

Mr. Philip: Do you want me to locate it in Hansard? It will probably take a few minutes, but—

Hon. Mr. Elgie: I don't think so.

Mr. Philip: If you haven't promised it in the Legislature, you certainly promised it to condominium groups. Is there a new act coming in?

Hon. Mr. Elgie: Can you tell me what stage your review of condominium legislation is at?

Mr. Simpson: As Mr. Philip probably knows, we have received briefs from the Canadian Condominium Institute and the Etobicoke Condominium Association. I think the Etobicoke association brief was picked up and elaborated on just a touch by North York and sent in by the clerk of the condominium committee in North York.

I think we are still awaiting briefs from a couple of other organizations, from the condominium managers. The briefs from the two groups of condominium managers are still outstanding. At this point we have identified a number of basic housekeeping-type issues that have to be resolved. There are probably—and I would have to guess—about 20 core issues. They are not critical aspects of the act. They are valid questions but fine-tuning items, particularly reserve funds and things like that. I think that process, when we get the rest of the briefs in, probably will take the balance of the winter. We will have some meetings with these groups. Again, we will be back to them after we have fine-tuned the list of things.

10:50 a.m.

Mr. Philip: I have had ministers tell me bills were housekeeping and then found out they were substantial bills. I have also had ministers state they had tremendous improvements and found out they were housekeeping. Let us be specific about housekeeping or specific about the changes.

Have you considered, and will you be implementing in the near future, any change to allow condominiums at least to set an additional tariff on absentee landlords or owners of units who rent out their units since there are additional

costs involved when someone owns a condominium and rents it out? Is that one of the changes you are contemplating?

Mr. Simpson: I am not personally in a position to say what I would or would not do. That is one of the items that will go forward at the end of the winter for the minister's consideration after we have canvassed everybody and looked at everything.

Mr. Philip: Does the minister have any views on that particular item?

Hon. Mr. Elgie: When I receive the final conclusions of the staff, then I will take those to my colleagues. That is one of the issues we are looking at.

Mr. Philip: One of the conclusions your ministry did receive many years ago was a very elaborate report by the Kealey commission. The Kealey commission recommended a registrar of condominiums and, instead, you implemented this silly thing that had nobody's support called Condominium Ontario. Luckily, under threat of losing another federal lawsuit in the Supreme Court, you did not charge condominium owners for it, the way you or your predecessor intended to.

I don't mind terribly when you pick really bright, defeated Tory candidates and put them in charge of commissions and they do a good job. Kealey did do a good job. What I object to is when you spend all that money and do not implement some of the excellent recommendations some of them have. They are in easy form to implement because they are in my private member's bill, as you know. I wonder if you could simply adopt it, steal it or plagiarize it the way the Attorney General's recent bill affected your ministry.

Mr. Chairman: You know what he told you in the House on that.

Mr. Philip: He said the idea came from Al Pope.

Mr. Chairman: Check it out with the Landlord and Tenant Act word by word. Let us get the record straight.

Mr. Philip: Are you prepared to introduce a registrar of condominiums who would also have the function of licensing condominium managers as was recommended by the Canadian Condominium Institute, by the Etobicoke Condominium Association and by the Association of Condominium Managers of Ontario, in fact by the survey done by the Canadian Condominium Institute? Are you now prepared to move

toward a registrar of condominiums or some other form of licensing and bonding condominium owners? I know the views of Mr. Simpson. I want the views of the minister.

Hon. Mr. Elgie: With the greatest respect, you ask the questions and I answer them the way I wish. I do not know at what stage consideration of that issue is for presentation, but could you comment on it, Robert?

Mr. Simpson: I have a particular problem with this one because Mr. Philip and I have an extensive dialogue historically on this issue. I think he would be surprised if I said that somehow I was deferring that issue for your consideration and I would be recommending it. He knows that on condominium managers we have had dialogue and we have some quite different feelings on the matter.

I do not want to get mixed up here. I do not make policy exactly, but you can bet I am smart enough to include in whatever package goes forward the arguments for and against the condominium manager registration and registrar concept, knowing full well that would be something of very keen interest to someone like yourself. I may have traditional views about the managers, but Dr. Elgie will be on the receiving end of a fairly extensive package, which will have both sides of the issue, and then he will decide.

Mr. Philip: I want to say to Dr. Elgie very strongly that you are going to be faced with a decision on whether you are going to accept the views of Mr. Simpson on this or the views of the rest of the world. I suggest that if you take that kind of—

Hon. Mr. Elgie: Is it that clear and simple?

Mr. Philip: You have had every major condominium group—you just mentioned the North York Condominium Association. You did not mention the North York Condominium Committee, which consists also of the president of the condominium association and so forth. They have also endorsed the idea.

There is the North York Condominium Committee and the Etobicoke Condominium Association, which are the two major condominium associations in the province. There is the Canadian Condominium Institute, which is the brain trust or the think tank of people in the industry as well as owners and more active boards of directors. There are the opinions of the one politician who is a professional member of the

Canadian Condominium Institute. If that is not the whole world in that field—

Mr. Simpson: I defer.

Mr. Philip: What more could you ask for? Surely it makes sense. I think distinguished counsel like Rosenberg and Levine—

Mr. Breithaupt: Not Morley.

Mr. Philip: I do not mean Morley but rather Alvin. He and Levine and Medhurst, the management consultant, are people whose views you should be considering. There is not one contrary view we have run into that is not in favour of what your own Kealey commission recommended.

You set up these expensive commissions to find employment for defeated Conservative candidates. After spending all that money, listening to all those views and then having other organizations come in to back up those views and endorse what I have in a private member's bill, though I took the major ideas from the hearings, as did Darwin Kealey, the least you can do is seriously look at implementing them.

You are going to have—and I have said this before—somebody walk off with a million bucks one day and then you are going to decide you are going to bond these people. It is not good enough simply to say that condominium directors have certain obligations and they alone should have the signing authority. The fact is that if there is a very clever, manipulative manager who manages to get into control he can have them signing the cheques and still walk off with the money.

I suggest to you that you are going to have, if not a major embezzlement, then a major construction problem, where somebody through incompetence has become manager of a major project, makes bad decisions and eventually runs up huge maintenance costs for that condominium. Either you move in the direction in which the professionals in the field and the others are asking, or you are going to have major problems.

Another major problem in condominiums is the whole cost of litigation. I am wondering what, if anything, you are prepared to do in the way of simplifying that kind of cost. I do not think it is good enough that the Canadian Condominium Institute has set up an arbitration system. Are you prepared now, as a result of certain court cases that make it a very long and expensive legal process, to bring in—with the Attorney General perhaps—legislation that will simplify the whole legal process condominium

boards of directors find themselves in, where they may have to take an owner to court for acting in an irresponsible way, or where a condominium owner himself may want to take the board to court for its violations of the Condominium Act?

Hon. Mr. Elgie: As I have said, I have asked Mr. Simpson to prepare a document for me on various issues in the Condominium Act that may be addressed and to look seriously at them all. Is that an issue that you are looking at now, Robert, as well as the others mentioned, as you prepare the paper for me?

Mr. Simpson: It will be one of the issues that come up. It is a little bit of news to me in a sense, Mr. Philip, because it is not something that is high on our radar screen at the moment. We do know that condominiums get involved in litigation from time to time and have to go to court to exercise these things, but we did not have a sense to this point that they were finding it a particularly oppressive situation financially or otherwise.

We will be pleased to pick up on that particular theme and go further with it if that is one that you think, as a participant in the whole system, is a valid one. If you will indulge me for just a second, Mr. Philip said I was alone in the world on this, and I may be alone on the manager question, but I am fairly thoughtful on that one. Mr. Philip stole a couple of things there from me because of a discussion we had the other day.

11:00 a.m.

Hon. Mr. Elgie: He did not have his own thoughts on it before that?

Mr. Simpson: He did.

Mr. Philip: I wish he would steal my ideas and then the condominium owners would be very happy.

Mr. Simpson: The argument that we have is a valid one and I can well understand Mr. Philip's point. The only thing I say, and have said fairly consistently when it comes to management of condominiums, is that on the question of the management of the money and where it goes there is no reason whatsoever why a condominium corporation, big or small, should ever face the prospect of the embezzlement of large sums of money.

It is so easy, with the advice of their lawyer and an accountant, which they must all have—they must have a chartered accountant and audited statements—to do two things. First, do not make the cheques out to the manager. As any accountant will tell you, maintenance cheques

should be made out to the condominium maintenance fund, not to the condominium manager. You impose the discipline of cheque writing on the manager; you do not let him write cheques.

You make the manager requisition cheques and you insist on two signatures on the cheques unless they are for a very small amount. These are simple, practical ways to head off money problems. I do not have an easy answer on the question of competence, experience and things like that.

Mr. Philip and I know from experience that there are some big ones which after a while do not do so hot and there are some small ones that are terrific. There is no automatic answer to the question of competence. When you are looking at competence, you tend to assume that longer is better and you might therefore restrict people from getting into the business unless they have a certain amount of training or experience. Small individuals with the right business attitude might do a superb job. I would not want to prejudice the issue one way or the other at this stage.

Mr. Philip: I did not hear the minister say when a bill will be forthcoming? Did I miss that.

Hon. Mr. Elgie: I did not say when the bill will be forthcoming, so you did not miss it.

Mr. Philip: When do you predict the bill will be coming forward?

Hon. Mr. Elgie: I expect to receive the final report early in the spring. I will then take whatever decision I reach, to my colleagues for their consideration.

Mr. Philip: Will you be sharing this report with the Canadian Condominium Institute and with the opposition, or is it simply an internal report?

Hon. Mr. Elgie: It is an internal report to me.

Mr. Philip: The report will come in by the spring?

Hon. Mr. Elgie: That is when I hope it will.

Mr. Philip: If any legislation were contemplated, when would it come in?

Hon. Mr. Elgie: By late spring or early fall, legislation would likely flow from it.

Mr. Philip: You are saying it will probably be technical or house keeping.

Hon. Mr. Elgie: No, that is not what I am saying. What I am saying is that the issues you have raised are issues that are being considered in the review and final determination from a ministerial point of view will be reached and then discussed with my colleagues.

Mr. Breithaupt: I know Mr. Philip is too modest to bring this subject forward, but we should spend a couple of moments on the car buyer, lemon law theme that he has certainly been most active in. Three states in the United States have already got into this situation this year.

Connecticut last March, New York in June and California back in January have all enacted this kind of car protection legislation. The member for Etobicoke (Mr. Philip) introduced a private member's bill on the general subject in May. Is this theme being studied at present? Has there been any progress towards devising a practical bill that could provide these kinds of protections in Ontario?

Hon. Mr. Elgie: We are looking at three areas now. Again, I am not committing myself to any legislation flowing from that, but I can say we are seriously looking at that. I did mention it in my response to the critic's remarks. Mainly, we are looking at the issue of a lemon law, to see whether it has turned out to be effective, whether it has lived up to the hopes some had for it and whether it offers more than the voluntary efforts being put forth by companies now through their own initiatives with the Better Business Bureau.

We are also looking at the issue of used car warranties. As I said before, from our examination of the Quebec situation, there is no doubt it has some advantages but it also has some disadvantages. It has raised the price of used cars and lowered the value of or the price paid on trade-ins. There is no doubt about that so far in our review. But we are also looking at the issue of greater disclosure of repairs.

Again, I am sure Mr. Simpson would say there is no greater or more effective method of controlling car repairs than the fact the next car in may be one of the ghost cars we have out, and that has been very effective. Those are three areas we are giving serious consideration at the present time.

Mr. Cassidy: If you would like a ghost car, I would be happy to offer mine, sir.

Hon. Mr. Elgie: But they would all know you, they would phone everybody else and say, "Cassidy is on the way." Not Hopalong, I mean you.

Mr. Breithaupt: Depends how much repair it needs, I suppose.

Hon. Mr. Elgie: Bob, would you like to comment at all? Do you have any additional remarks in response to that?

Mr. Simpson: No, minister. I think you have said it all really, in effect.

We are aware of the various state initiatives, the lemon laws, and have copies of all of them. In keeping with what Mr. Elgie says, it is very interesting to look at each of them because there is a trail across the United States. It is really quite fascinating how the earliest ones left so many things out and the latest one becomes the most contemporary one because it picked up everything everybody has thought of along the way. You can be sure the next one out will have even more.

It is an area that begs a large number of questions as you get into the process of deciding what is a lemon, how you deal with it, definitions and so on. We are making a very careful study of it.

Mr. Breithaupt: I realize that even matters of definition are important. The Quebec consumer protection bureau has now had, since 1980, some pattern of experience. They have been able to define their terms. My understanding is their legislation defines the term as that where there is a major mechanical problem that is not fixed after four tries and the vehicle is out of service for more than 30 days in its first year.

Of course, you can tinker with the number of tries, the number of days and these kinds of things, but the principle of incompleting or inadequate repairs and the cost or inconvenience to the consumer are the two themes any definition would have to address.

Do you have any connection currently to monitor the Quebec situation, since there is some equivalence with the kind of market, the kind of numbers of vehicles that might be expected in our scene?

I recognize some of the US jurisdictions may have a variety of other concerns, but the circumstances in Quebec—beyond the fact that legislation may have had some effect upon prices—is an interesting comparison. Is there anything more than that sort of educated guess at the moment, that people are paying somewhat less for these vehicles because of the requirements of maintenance?

One would think that if there was a general improvement in maintenance on used cars or there was a requirement for maintenance to be quite clearly a commitment of the new car vendor, there are some good public policy themes, such as the result of fewer accidents and fewer costs to the hospital care system and whatever. Are there any other themes that can

be drawn from that Quebec experience other than the used car cost aspect?

11:10 a.m.

Mr. Simpson: By way of clarification—and I stand to be corrected—I do not think Quebec has a lemon law in its statutes. I am sure they are looking at it as well.

Mr. Elgie's comments and mine, in the context of the price impacts, would relate to the mandatory used car warranties.

Mr. Breithaupt: Yes, on the used cars.

Mr. Simpson: That is where the impacts are felt. That is what we would be talking about.

I am pleased to talk about Quebec because we have a very good working relationship with our Quebec colleagues on the car questions and the Consumer Protection Act issues. Our people have been down there, officially and unofficially, two or three times since the Quebec act came into effect. They have been specifically looking at the material in their act concerning cars; the mandatory warranties and disclosures and so on.

Our officials have visited their officials and have quietly driven the highways and byways of Quebec to see what is happening in the car lots. They have also talked to people informally about it.

Our impression, as Mr. Elgie indicated, is that the Quebec initiatives with respect to used car warranties and disclosure are working. The compliance is there, but there are these economic issues in connection with the mandatory warranties.

If used car prices are marginally higher and trade-ins are marginally lower, we surmise this is to provide a cushion for the swings and so on; whatever you have to ensure collectively in the way of repairs and so on, is picked up somehow in the price.

Mr. Breithaupt: It is going to be paid. There is no question about it.

Mr. Simpson: We will have to factor in those side effects, the economic aspects of it.

We were talking to our colleagues down there about three weeks ago because we had had some discussions with the Automobile Protection Association, Mr. Edmondston's group. My counterpart down there suggested we should get together again anyway, because they have an interest in our ghost car enforcement scheme.

Mr. Breithaupt: Do they have that same kind of a program?

Mr. Simpson: They were picking it up. I think

they started to develop it about a year and a half ago. They came to see us then to do that. I expect we will meet with them again just before we finalize our considerations on the car matters, to go over their experience and test some of these things out.

Mr. Philip: May I ask one question? Has the minister had an opportunity to review the bill on this that I introduced? I believe it was seconded by Mr. Swart; Bill 20, An Act to protect the Purchasers of New Motor Vehicles. Does he see this as a possible solution to the present problem, at least as it pertains to new cars?

Hon. Mr. Elgie: You were out of the room when we responded to that.

Mr. Philip: I was talking to the press.

Hon. Mr. Elgie: I was not being critical. I know you have to talk to the media. It is important for you to do that.

Mr. Chairman: It is important for you to do it.

Hon. Mr. Elgie: It is important for us all to do it. We have gathered together the bills from all of the states that have put in such bills, including yours. I know the automobile dealers were very interested in the fact that it imposed a liability on them with respect to this.

We are looking at your bill, with admiration, as usual, for you draw up bills on your own initiative without taking advantage of all of the other bills that have been brought in throughout the country. You independently and innovatively draft them. Certainly, that will be one of the bills that we look at as we consider the issue. As I said, we are giving it serious consideration.

Mr. Chairman: Just before I call Mr. Swart, I would like to remind the members that there were a few other members who had indicated they wanted to ask questions, Mr. Gillies on vote 1504 and Mr. Mitchell on votes 1505 and 1506. I think Mr. Swart and Mr. Mitchell would like to ask questions on vote 1508.

We seem to have spent quite a bit of time on section 6. Perhaps we could wrap this up and move on so we could get on to some of these other questions.

Mr. Philip: I had requested a particular public servant to be here, as I think it is important. I want to ask him some questions on Chieftain-Shamrock Tours.

Hon. Mr. Elgie: He is coming.

Mr. Philip: The registrar is coming. If I may be kept on the list on this vote for that one item, I will drop some of my other questions.

Mr. Chairman: We can do that now.

Mr. Philip: I defer to Mr. Swart and then I can ask questions after.

Mr. Chairman: I want to remind everybody we did not exactly have consensus that we are going to do vote 1508 tomorrow, so we would like to get as much done as we can. Everybody has a few questions. Carry on, Mr. Swart.

Mr. Swart: I want to go back to the issue we were discussing and ask one further question of the minister on this matter of the refinancing of the long-term loans and mortgages to farmers. Will you prepare a white paper or give some consideration and report on measures which might be taken on this? I am sure you would agree there are some tremendous hardships being caused at the present time by the commitment on long-term and high interest rates.

Recognizing some validity, of course, in what you have said, I still think there is some area where legislation could be enacted. Would you be willing, not in defence of doing nothing, to have a study done on this and submit alternatives to the members of this House or table a report, something of that nature? I think it is such an important issue that this would be the minimum that should be done.

Hon. Mr. Elgie: I will not give you any firm commitment on that. I will say it is an area we have concerns about and periodically look at. As you know, the federal government has an initiative it has put forward. We will be analysing that and anything we do will flow from who has responsibility for it and which is the appropriate ministry if any consideration is to be given to it. We already have, as you know, fairly extensive programs with respect to the farming community in a number of areas which have received great praise throughout the province.

We will continue to look at matters such as the one you raised, but I will not give any commitment as to whether there will be any documentation presented.

Mr. Swart: I do not consider that answer good enough, but there are other matters I want to get to so we will move on from that. I would like to carry on for at least a moment or two. I want to raise again with the minister the matter of a fair prices commission or some form of intervention on prices which may be excessive and may not be justified.

A couple of moments ago, in a light vein, you poked a bit of fun at my colleague the member for Etobicoke (Mr. Philip) about his proposed act not being independently arrived at or inno-

vative. In a light vein, you really accused him of copying.

Mr. Chairman: He did the accusing originally, Mr. Swart. I beg your pardon.

Mr. Mitchell: I think the record will show the minister said he is using his independent thinking.

Mr. Swart: But tongue in cheek, okay?

Hon. Mr. Elgie: It would always be tongue in cheek with that member because I have a great deal of respect for him, as I do for you.

Mr. Swart: In any event, I wanted to point out that this matter of a fair prices commission is innovative and independently arrived at. I want to point out that your government puts a great deal of credibility in polls. Most of the decisions your government makes seem to be related to polls which have been taken. In the matter of intervention on prices themselves, there is a great desire out there on the part of the public for some form of intervention by governments to ensure they are not paying unfair prices.

My colleague the member for Port Arthur (Mr. Foulds), in his questionnaire in his constituency report, asked the question, "Should the provincial government establish a price review board to roll back unjustified price increases?" The yes was 80 per cent; no, 14 per cent; do not know, six per cent.

11:20 a.m.

It is admitted these kinds of questionnaires are not scientific, but I would point out that, generally, the results of those questionnaires are in line with Gallup polls and other forms of public opinion sampling. The Gallup poll has asked this question at least three times in the last five years. Every time more than 60 per cent of the public wants some kind of government intervention on unjustified prices.

I suggest there is very real reason for that. There are areas—and this relates to my previous comments—where because of the lack of competition the consumers of this province and this nation are not assured of fair prices. This province does have jurisdiction over retail prices and, therefore, has some responsibility.

It may be said this should be done at the federal level but, constitutionally, you do have authority over retail prices. Due to the fact this is the largest province in the nation as far as population goes and as far as purchases of consumer goods, the lead given by this province would have an impact across the whole nation. The little provinces would have much more difficulty getting into it.

I would point out again that one area that

bears out the need for this is the retail price of cereals in this province. That may seem like a small thing, but the cereal companies report ongoing, increasing, dramatic profits. You may say I am always complaining about profits, but in these times it can be considered a very real weathervane as to whether there is real competition in those areas where profits increase dramatically, as they have with the cereal companies.

Quaker Oats Co. of Canada Ltd., for instance, reports that over the last five years net sales and net income before extraordinary items have grown at a composite annual rate of 10.1 per cent for net sales and 23.1 per cent for profits—in a little less than five years; that is a compounded rate.

I think you would agree you would have to look at that. They are either tremendously good managers or else they are charging too much for the product.

Mr. Chairman: Or diversifying.

Mr. Swart: Mr. Chairman, you should not get into the debate.

All of the cereal companies are in the same situation, whether it is Kellogg's or whether it is General Mills. General Mills reports their profits over the last five years have grown at a compounded rate of 32 per cent. That is from their annual statement this year.

Kellogg's is in the same situation. The price of the products they sell, and I have it here in great detail from Ambler's pricing services, just continue to increase, regardless of what the farmer is getting.

I had a call from a farmer in my area, one of the largest farmers in the Niagara Peninsula. They are general farmers by the name of Summers, the Summers brothers. They are good farmers, they grow a good quality of oats. They told me they were informed in September this year by Quaker Oats in Peterborough that although they had received \$200 a ton last year for their oats—which, of course, was above the general price because Quaker Oats buys very high quality; it has to be above a certain weight per bushel—that this year they are going to be paid \$152 a ton. That is the correct figure, yes. The same price is set for the year, except that storage is added to it.

Last year they paid \$200 a ton. Now it is down to \$152 this year. The price was set early in the year. Yet, at the same time, the price of their products is increasing.

In the United States an antitrust action was taken against the cereal companies there. The

same cereal companies operate here except there are fewer of them. With all of this evidence, it would seem to me there should be some investigation into the prices these cereal companies are charging.

If we find they are excessive, and all the *prima facie* evidence is there—and I am sure, minister, you would agree with that—then surely there should be some place, whether it is an investigation under the Combines Investigation Act or whether it is a fair prices commission here, to investigate something like that. If they find they are excessive, they can step in and say, "You should roll those back."

If you had a fair prices commission with that power and it was done on one or two occasions it would act as a real deterrent to those companies, but your government does not seem to be the least bit interested, first of all, in ensuring there is full and free competition where it can exist—there are some areas it cannot exist—and, second, in having a fair prices commission or taking some responsibility for protecting the consumers of this province.

There is another aspect of this that I would like to bring out to you as well. I am sure you must be aware that over the last four years there has been a reduction in the proportion of the consumers' price of food going to the farmers, from 59 per cent in September four years ago to 48 per cent this September. In November, it was down to 47.6 per cent. There was a net decrease in the share the farmer gets of the consumers' price of food.

Granted, part of that is due to the dramatic decrease in the gate price of many of the products the farmer sells. The costs of the processors and the retailers may not have been reduced proportionately, so that is one of the reasons for it. However, that kind of a change within four years, as pointed out by the Ontario Federation of Agriculture over and over again, really requires some looking at, especially when you have this issue of the cereal prices going up while there is a reduction in what the farmer gets.

I say there is a real need for some kind of a fair prices commission, some kind of a government agency within this province that could look into these kinds of matters. I could give a great many more examples of this where, on the *prima facie* evidence, it appears there is an unreasonable price to the consumer. I am not dealing right now with administered prices; if we get time, I would like to touch on that a bit later.

I would implore the minister once again to

not deal with this matter lightly or just slough it off as coming from the NDP as if it had no validity whatsoever. There is some real reason for you to consider some form of a fair prices commission to investigate, on an ad hoc basis, increases in consumer prices which do not seem to be justified, especially when we do not have adequate combines legislation, adequate by almost any measurement by any other country.

I am appalled at the lack of interest by the government of this province in the matter of prices when they are at least pretending to be concerned about inflation and when Jack Biddell himself has stated that prices do need attention and you should zero in on prices if you are interested in fighting inflation.

I would like the minister to make some comments on that, although I know what his reply will be.

Hon. Mr. Elgie: This is not a discussion that you and I have not had before on other occasions, in estimates and in the Legislature. Far from accepting your view that we simply slough off the issue of prices, I have to say we have some fundamental differences of opinion with regard to the way in which price-setting mechanisms work.

11:30 a.m.

We in this party happen to think that, by and large, a free market system serves the public better than any other system that we have seen to date. I am always astounded that whenever you raise these issues that trouble you, usually about particular segments of the food industry, you consistently fail to face the reality that food prices have gone up by about only 2.6 per cent in this province in the past year.

You consistently refuse to say the market system seems to be working satisfactorily; that food prices are well below the average consumer price index. You consistently refuse to acknowledge the latest statistics which show that prices, not only in the food area, have gone up something in the neighbourhood of only 4.9 per cent over the past year.

There is nothing easier in life than singling out examples and saying, "Look at that." We happen to believe that the increases in the past year substantiate the fact that the free market system has served the people very well in this province. I think that would substantiate the position I have been taking over the years.

That is not to say there are not things that have to be looked at periodically, nor to say we cannot acknowledge that we have in place

marketing boards in the province which deal with any number of food issues, and it is not to say that there may not be times when we have and when we do specifically look at particular price increases to determine whether or not we should have discussions with the industry.

I want to make it very clear that we do not see the principle of a fair prices commission. The amount of intervention and the bureaucratic costs that would be involved in having such a process would not serve the public well in the face of statistics, which I have to tell you quite frankly must astound those who would want to choose another route. I think we have seen a system that is working very well in terms of the consumer.

I would have to reject that as a reasonable option for government to be looking at, having the philosophy that we do. I would have to say that this past year particularly would substantiate the view we have taken. We like to think that the government, through its administered prices program, has held its prices down and has contributed to this.

You consistently refer to Jack Biddell. You know his views relate to a wage and price control system in which prices have to be dealt with in some way as effectively as wages are dealt with. But you never say that, because your party does not accept the position that wages increases influence inflation.

Mr. Swart: You do not either.

Hon. Mr. Elgie: I have to tell you that the man you keep quoting would feel that they do influence inflation. If you are going to quote him, quote all of it. Do not just selectively quote the things you want. Again, let me reiterate that I think the free market system we have in place has served us very well and served the public very well. I think the evidence is there for those who want to accept it.

Mr. Swart: I am not refraining from replying because he has convinced me. My colleague is anxious to get on with another issue.

Mr. Gillies: We will just have to assume that you accept the argument.

Mr. Chairman: Let the record show.

Mr. Swart: Let us say I get kind of amused when the term "free market system" is thrown around, when in many aspects it is not free and the competition is not there. We share a lot of similar views about competition, about controlling prices. I realize it is not working in many areas and the minister is still back 40 years ago when there was free competition.

Mr. Bradley: Mr. Chairman, I want to compliment the minister—partially, not entirely—on one aspect of his program that I know members of the committee have expressed concern about this morning, previous to my arrival in this committee. I want to encourage you to increase your program of using ghost cars in terms of the automotive repair and automotive maintenance industry. I know you have made some statements on this. I have seen some emanating from your ministry.

I guess it is one problem each of us has on a personal basis because we go through it. I can well recall having a lightbulb replaced for \$100 and phoning them up and telling them they could have their lightbulb back. I thought it was going to cost 50 cents and I knew they would charge me \$5 because they always charge some exorbitant rate. I saw it was \$100. They told me why it was this. There was no previous expression of how much it might cost. Surely no one would get a lightbulb replaced for \$100.

I do not want to go on with my personal problems except to demonstrate that so many people will talk about being taken when their cars are being maintained and when their cars are being repaired. I know you have addressed this problem in the past.

Let me share with you for a minute a comment by Jim Martin in *St. Catharines*, which typically came up yesterday as part of an editorial he did on a radio station. It will demonstrate the problem to the minister and perhaps encourage him to have even more ghost cars and more sleuths involved than he has now. I know you are making a major effort in that area.

I am quoting from Jim Martin's editorial to show his experience. "An excursion in my new car recently provided me with some startling lessons about body shops and inflation. The damage was strictly cosmetic, a minor ding in the hood, some tears in the rubber bumper covering and some broken glass and plastic in the headlight grille area. I was shocked and incensed when the estimate totalled nearly \$1,200. I figured I could do a lot of the repairs myself for a little more than the cost of my \$250 deductible.

"For starters, two hours' work by yours truly saved \$195 and the cost of parts, a straightened frame and invisible repairs to hairline cracks in the plastic grille and left headlight door, parts the body shop was simply going to throw away. Even at \$25-an-hour labour costs, the shop could have repaired the parts for a net saving of

\$145. They were also going to replace the inner bumper bar at a cost of \$131. My later inspection showed it to be undamaged. I replaced damaged headlight components at an auto parts store for \$19 cheaper than the quoted price. At this point I had already saved a total of \$345 without any complex work.

"The shop estimate for repairing the urethane bumper covering was another \$267. A tube of commercially available structural adhesive and about three hours of elbow grease and, voilà, good as new and ready for painting. Total savings to this point: \$602.

"The paint and metal work I farmed out to a professional for \$200. That plus the replacement of some trim parts left me with a total repair bill of just over \$300. At the end, I had saved my insurance company nearly \$900. I am of the opinion that insurance companies are ripped off too often by policyholders who do not ask the right questions.

"Not everyone may have my inclination to pick up tools but, using my own car as an example, anyone asking the right questions, 'Can it be repaired instead of replaced? Is this work necessary? Can the parts be purchased cheaper?' could have saved \$350 right off the top. Is it any wonder insurance costs are so high?"

That is one experience. The only point I make—and I thank the committee for its indulgence because I know it has gone over some of this territory before—is that time and again this is a situation confronting consumers in this province. I know it is easy, when the insurance company is paying, to say yes to everything and get the best of everything. I know there are now places one can go to get other estimates, which I think is reasonable. But the more times you catch people in the business who are, to use a modern saying and I do not like it, ripping off people, be it in the maintenance business or the automotive body repair business, the better off we are.

The people who are going to salute you for that obviously are, first, the consumers but, second, the majority of people in the automotive repair business and in the body business, as far as cars are concerned. Those honest business people are going to applaud you as well because they have just about all got a bad name because of some of the horrendous stories we have heard of people being confronted with this situation.

11:40 a.m.

If your ministry needs more money for that purpose, I am sure the opposition parties would be happy to see you have more money. I applaud you every time you seize a new initiative in this area because I think that is the kind of consumer protection that does not interfere with private enterprise. It is only interfering with people who want to be crooked in the private enterprise business. That kind of intervention in the business world is one which I think would be applauded by everybody. I know that you have taken some steps, which I will be glad to hear about, and I would also encourage you to increase that work on the part of your ministry.

Hon. Mr. Elgie: As you have mentioned, it has been a matter that we discussed in some detail. The ghost car program has been a good program. It is one, as we have been talking about, the Quebec government is now emulating. They started it about a year and a half ago, and they are now coming to see us periodically about ways in which they can improve their program. Certainly we are always looking at ways to improve it.

Beyond that, as I mentioned, we are also seriously reviewing the whole issue of the automobile industry in terms of lemon laws, in terms of used car warranties, with the drawbacks that I have spoken about, as well as the issue of disclosure on repair.

You mentioned that there is no substitute for shopping around. Indeed, some of the insurers, as you know, have taken it upon themselves to propose lists of repair companies which they deem will likely, in their experience, produce repair accounts that are in line with the kind of costs as they see them. I do not think they are saying the others are not fulfilling their roles properly; they are simply going on their own experience. That raised a lot of concern among members in the House, as you know, and I think some of it was justified because it does tend to cast a pall on others that may not be justified.

We will continue to pursue the ghost car program and we will continue to review the other issues in a very serious way.

Mr. Bradley: On the point that you raised about the provision of some lists of satisfactory repairers, do you also have an opportunity, in any ongoing contact with the insurance advisory organization or individual companies, to have suggested to you from time to time those names on the list that are not satisfactory

repairers and possible stops where those ghost cars should visit?

Hon. Mr. Elgie: I do not know that.

Mr. Bradley: Is there any feeling about that in the insurance industry, that XY Repairs is really just beyond the line and you could be welcomed in there in the general interests of the whole scene?

Hon. Mr. Elgie: Mr. Mitchell, would you come up? Maybe you can answer as to whether or not you get that kind of information.

Mr. Mitchell: Allow the record to show that he is not my brother.

Hon. Mr. Elgie: No relation. Second, to answer the other question, can you just discuss the ghost car program that you have in place. This is Mr. David Mitchell.

Mr. D. L. Mitchell: May I have the question again?

Hon. Mr. Elgie: First, Mr. Breithaupt asked about information and discussions you may have with the insurance industry from time to time. Do you hear from them about repair shops that in their experience they have found tend to be overcharging? Is that putting it fairly?

Mr. Breithaupt: Yes, and where the ghost car or some other monitoring might be a worthwhile exercise.

Hon. Mr. Elgie: Do they help narrow down the areas you check?

Mr. D. L. Mitchell: No, they do not. I guess if we have heard anything, we have heard where insurance companies have exclusive lists of repair shops, and I believe there is certainly one in St. Catharines.

Mr. Breithaupt: Exclusive or suggested?

Mr. D. L. Mitchell: I guess you could call it suggested. On one list I think there were four garages to which it was suggested that the vehicle be taken. I would assume there is some arrangement between the garage and the insurer, but nobody is willing to finger anybody and say: "This is a bad guy. We would like you to ghost him."

We have got into some of it through our own program, but not through insurance companies. It has probably been as a result of a complaint from someone who felt he got used parts and was charged for new parts, or who was certainly charged a lot more money than he thought the job was worth. That is mainly how we have got it, but we have had no dialogue at all with the insurers.

Mr. Chairman: Could we have the minister's official so Mr. Philip could ask him a few questions?

Mr. Philip: If Mr. Caven, the registrar of the Travel Industry Act would like to come to a microphone I would appreciate asking him some questions.

Mr. Chairman: Mr. Douglas Caven of the travel industry fund.

Mr. Philip: Mr. Caven, I want to ask you about certain dates and certain information concerning the demise of yet another wholesaler you are supposed to be supervising. As an introductory question, would you be able to list for the committee the names of the wholesalers that have gone bankrupt in the last seven years, starting perhaps with Blue Vista Travel and going on from then?

Mr. Caven: I presume you are referring to the major ones, starting with Blue Vista.

Mr. Philip: Yes.

Mr. Caven: Blue Vista was in December 1975. Then there was a gap until approximately April 1981. The second one was Strand Holidays. There was a further gap of one year until April 30, 1982, when there was Sunflight Vacations Ltd. and Skylark Holidays Ltd. The next one was late September 1982, Fairway Tours. The most recent one has been Chieftain-Shamrock, November 9, 1983.

Mr. Philip: Fairway was the one I put down so I am one of the victims as well.

Does it not strike you there is something wrong in your licensing system when you have, since 1981, in three years, four major companies that have gone under and which you are supervising? Your early warning system does not seem to be working. What kind of supervision is that?

Mr. Caven: I think it depends on your interpretation of "early warning system." Which case would you like to discuss, the most recent or would you like to backtrack?

Mr. Philip: Does it not strike you that when you have four major wholesalers going under you have a major problem in your department?

Mr. Caven: Out of 400 wholesalers registered, if you want to go percentage-wise, that is very low.

Mr. Philip: Not 400 major wholesalers like this.

Mr. Caven: No, not 400 major.

Mr. Philip: It is the big ones that have gone under, by and large.

Mr. Breithaupt: How many are there?

Mr. Caven: At the present time? About 25, approximately.

Mr. Breithaupt: Then is four out of 25.

Mr. Caven: Yes. There are many factors that neither our review of a registrant nor legislation would ever be able to cover, such as economics. I am talking strictly about the travel industry. The past two years have not been good seasons, whether it be summer or winter.

There has been an overcapacity in the marketplace. Each firm feels it is going to be able to outsell its competition. This can be very expensive on booking aircraft, etc. World conditions, little outbreaks in the world—Grenada is certainly going to affect the Caribbean this winter, particularly Barbados—a lot of factors you, I and the travel agent or wholesaler have little control over, affect the market.

Mr. Philip: Is it not a fact that at the present time you have concerns about one other major wholesaler, and you have some concerns that this company may go under fairly shortly? Is that true?

Mr. Caven: No particular wholesaler; we have a monitoring of all of them.

Mr. Philip: There is not one specific wholesaler you are now particularly concerned about that travel agents have brought to your attention?

Mr. Caven: Not that I can think of offhand. If you want to name it—

Mr. Philip: If I name it, we end up with a run on the business. I do not intend to be that irresponsible.

Mr. Breithaupt: It would certainly be a self-serving prediction.

11:50 a.m.

Mr. Philip: In the case of Air Bridge Corp., you registered Air Bridge as a wholesaler on October 7 and as a retailer on October 22. Is that correct?

Mr. Caven: We renewed them.

Mr. Philip: You renewed them?

Mr. Caven: Correct.

Mr. Philip: Yet less than a month later the company is in receivership.

Mr. Caven: Yes. The renewal is not based on a financial position at renewal time. Also, you have to bear in mind that at the renewal period during the month of October and, in fact, back into September, there were negotiations going

on for the sale of Air Bridge, of which we were aware. In fact, the sale was concluded on October 31.

In other words, the sale looked very definite. On October 31 the sale was made to Sunquest. There was a public announcement, a press conference. One week later, November 7, the deal was off. That is when we became very concerned, at that point.

Mr. Philip: Let me understand the renewal process. You are saying you do not examine the financial situation of a company before you renew?

Mr. Caven: The renewal is a staggered renewal, based on a two-year period. We have an ongoing monitoring of all registrants; that is on a financial basis. The renewal becomes almost automatic because you already have a monitoring on a particular agency.

You also have to bear in mind that we are far better to renew an agent, even though there may be problems around the corner, because you have the protection for the consumer. You do not want to have a lapse in that registration. Otherwise, there would be no protection for the consumer through the compensation fund. We will say hypothetically that your registration expires October 1. If I do not renew that for whatever reason until November 30, any clients or consumers who deal with that agency during that period would not be protected by the compensation fund.

Mr. Philip: You say there is protection for the consumer. In fact, the consumer or the travel agent, depending on whether he wants to reimburse, does lose because he is not covered for all his costs.

He is not covered for insurance, for example, that he may take out for the trip, which could average anywhere between \$11 and \$44, the latest schedule shows, including health insurance. That is not counting life insurance, which he may take out in addition to the trip. His airport tax, which is \$11, is also not covered.

Mr. Caven: Excuse me, the airport taxes are covered. The only exclusion is the insurance.

Mr. Philip: On a tour that is cancelled, a couple may be out of pocket about \$80.

Mr. Caven: On cancellation insurance.

Mr. Philip: That is not covered?

Mr. Caven: That is not covered by the compensation fund.

Mr. Philip: Are you aware of the tremendous additional costs travel agents are going through

because you have no system of successfully monitoring wholesalers? In fact, it is the small or main or even the large travel agents who are bearing the cost of your inability, supposedly, to supervise the wholesale industry.

Mr. Caven: I would have to disagree with your comment that there is no control over wholesalers. Consider the volume of business and the number of agencies in the province. You have to remember we have more registrations in Ontario than the rest of Canada put together.

Our financial monitoring of the agencies has paid off. We have facts and figures proving that it has. No monitoring will ever completely avoid a bankruptcy.

Mr. Philip: Are you talking about the agencies or the wholesalers?

Mr. Caven: I am talking right across the board, the wholesalers and retailers.

Mr. Philip: If the monitoring of the wholesalers has paid off, it has paid off in a strange way. You have had four major bankruptcies in three years.

Mr. Caven: Agreed, but remember the protection of the consumer has still been provided. Also, the timing, if that is the right word, of the demise of some of these wholesalers has certainly been geared to the right period of time.

Mr. Philip: I really question whether the consumer is protected. You have got to admit that if my travel agent's premium goes up \$3,000 a year, as it did in one case because of the last bankruptcy, he has to get that \$3,000 from somewhere. The travel agents are not notorious for large profits. It is a very competitive business. If that does not come out of reduced service to me, I do not know where it comes from.

His rent goes up, everything else goes up and then every time there is a bankruptcy of a wholesaler his premium goes up. That means he has got to cut somewhere. He either cuts on that little extra bottle of champagne he orders for my hotel room when I get there or he cuts in a more substantial way by cutting down on staff and therefore on service to me as a purchaser.

How much would the average travel agent be nicked in terms of extra premiums as the result of the Sunflight-Skylark bankruptcy in April 1982?

Mr. Caven: Your formula for payment by all agents, small or large, is based on their sales. The payment a travel agent makes to the fund is \$3 per \$10,000 gross sales, \$30 per \$100,000,

\$300 per \$1 million. The average agency in Ontario is doing less than \$1 million. We will say hypothetically his assessment would have been \$250 to the fund in the calendar year 1983.

He was assessed 50 per cent, so his increase is \$125 for one year. There is no assessment being placed on them as a result of the most recent bankruptcy, that is Chieftain-Shamrock.

Hon. Mr. Elgie: There was a three-year premium holiday prior to that.

Mr. Caven: Yes. There was a three-premium holiday when they did not pay five cents.

Mr. Philip: Free'N Easy Travel in Rexdale tells me that his premium went up \$3,000 in one year.

Mr. Caven: He must be doing a lot of business on that formula.

Mr. Breithaupt: Is it based only on volume?

Mr. Caven: It is only based on volume.

Mr. Philip: Is it not true that travel agents still have not collected more than 30 cents on the dollar on the Sunflight-Skylark bankruptcy?

Mr. Caven: All claimants, agents or consumers have all been paid 60 cents on the dollar.

Mr. Philip: Sixty cents on the dollar, I am sorry.

Mr. Caven: The maximum payout on any one bankruptcy at that particular period was \$1.2 million. Taking Sunflight and Skylark together is a total of \$2.4 million.

The claims on the fund exceeded over \$3 million on Sunflight-Skylark. We have been before the courts since late summer or early fall of 1982 pertaining to the frozen assets of Sunflight-Skylark. We froze their accounts. Our position has been that there are trust moneys there. We were before the courts as recently as November 30. Those moneys have now been declared by the courts as a trust account.

The compensation fund will be receiving a portion of those trust moneys. Some of the money belongs to other provinces. When that is received it will be added to the \$2.4 million and every claimant will be very close to 100 cents on the dollar.

Mr. Breithaupt: Otherwise is the fund exhausted?

Mr. Caven: The fund has a limitation of \$2.4 million, which the fund has paid.

Mr. Philip: You are saying then that the agents that are out of pocket thousands of dollars, as some of them have been, because they have only got 60 cents on the dollar—after

April 1982, I mean; they got it several months later—which they have had to refund to their customers for goodwill purposes, are going to get the other 40 cents on the dollar, or 39 cents or close to it?

Mr. Caven: It is likely, from the figures we have available after our court appearance November 30.

12 noon

Mr. Philip: In the case of Air Bridge, can you tell us why Norman Baird in your office would have told travel agents to forward their payments on behalf of Chieftain? The following day you seized control of the company.

Mr. Caven: The Tuesday, November 8, freeze on Air Bridge was a precautionary measure. This was the first meeting we had had with them. You are referring to the Wednesday morning. We received calls because there was gossip within the industry concerning the firm's difficulties. We did not have sufficient evidence at that time to advise people we had frozen the company's assets, because the previous afternoon's actions were truly precautionary. All we could tell an agent was that the company was still registered.

By 11 or 12 o'clock Wednesday, we did have sufficient evidence to advise agents to hold all payments for 24 hours until Thursday, at which time there would be a press conference and full disclosure.

Mr. Philip: It astonishes me you could reregister this company on October 7, reregister it as a retailer on October 22, then freeze its assets on November 8. And on November 9 you were still telling people to send their money to Chieftain. These travel agents are now out of pocket and it will be another year before they collect.

Mr. Caven: This is incorrect. The first payments were made yesterday.

Mr. Philip: I am just going on your history. Some agents involved with Sunflight and Skylark still have not got their last 40 cents.

Can you tell us why a travel agent who put a stop payment on a cheque would then be harassed by the Clarkson Co. Ltd.? You have the absurd situation where a travel agent found out on November 8 or 9 that this company was in trouble, he had paid out this money on behalf of his clients, but he wanted to protect the clients' money so he put a stop payment on the cheque.

Those who paid with a charge card had it processed immediately by Chieftain, so they had no way of stopping it. The ones who paid by cheque received a letter from the Clarkson Co.

Ltd. saying they still had to pay for these nonexistent trips, trips that would never take place.

The agent knew the trips would never take place so he stopped payment on the cheque, only to be harassed by the Clarkson Co. Ltd. which said, "Pay up for a product you are not going to receive."

Mr. Caven: The Clarkson Co. Ltd. was appointed as receiver on Wednesday, November 9. As to your comments, I cannot answer for Clarkson. We are not involved. We have nothing to do with the system Clarkson follows.

Mr. Philip: Let me read you a letter a travel agent in my riding received, dated November 10. This is an agent who does a fairly large business in the Shopper's World Albion Mall in Rexdale. It says:

"Take notice that Air Bridge Corp. has mortgaged and charged all of its undertaking, property and assets to, and in favour of, Worldways Canada Inc., pursuant to a demand debenture given to Worldways Canada Inc.; that the Clarkson Co. Ltd. has been appointed pursuant to an order of the Supreme Court of Ontario as the receiver and manager of such undertaking, property and assets under the terms of the said demand debenture.

"The books and records of Air Bridge Corp. Inc. indicate that at this stage you are indebted to the company."

They were indebted to the company for a trip that was in the future and that would never take place. The fact is they would send a cheque for something they were not going to get.

"We hereby request and direct you to pay your account with the Clarkson Co. Ltd. and forward your payment to the Clarkson Co. Ltd. receivers, etc. . . . A receipt and discharge for the amount you owe can be given by us. We have to advise you that you will be responsible for any money paid to anyone except us after receipt of this notice."

So here you have the agent trying to protect their money and the money of their consumers by not paying for a product which they were not going to get and Clarkson calls them up and says, "You better pay up for this."

Mr. Caven: I still would have to take the same position. I cannot answer for Clarkson. We are not doing the collecting at our end.

Mr. Philip: Does it not seem to you peculiar, as the registrar, that a travel agent should not have the right to protect himself by not paying

for something he is not going to receive or his clients are not going to receive?

Mr. Caven: I think you would have to have further details as to whether that was a true receivable. There is also the possibility that the amount you are referring to is a true receivable to the accounts of either Chieftain or Shamrock.

Mr. Philip: The thing I cannot understand and the travel agents cannot understand is why it is that after one wholesale bankruptcy after another you cannot develop a system, as has been done in certainly a couple of the states in the US, so money that is paid for a trip must be spent on that trip. Why is it that you are so slow in following either New York or California or some of the other states that have been able to come up with systems to protect the travel agents and indirectly protect the consumer so wholesalers are not using money for future trips to pay off present trips or for any other purpose?

Mr. Caven: First, I would like to state that there is no similar legislation in the entire United States. I think perhaps what you might be referring to is their escrow accounting required at the federal level to do with airlines. But there is no similar legislation even close to our legislation in any of the states.

Mr. Philip: You are saying that California does not have that—

Mr. Caven: No; none of them. It does not matter which state, none of them has. They have escrow accounting, which is controlled, or escrow depositing through the Civil Aeronautics Board. That is at the federal level and has to do with airlines on charter flights.

Mr. Breithaupt: That would be a Braniff kind of situation.

Mr. Caven: No. Braniff, being a scheduled carrier, was not involved. Unfortunately, it would be charter carriers only. For example, we did have a charter carrier last spring selling in Ontario but operating out of Niagara Falls, New York. All moneys were deposited to First City National Bank, Detroit, because it was operating out of a US point and came under the CAB regulations at that point.

Mr. Philip: My question still holds, though. Why is it you cannot set up a system of moneys being deposited in trust or in escrow so it is assured that moneys paid by travel agents for particular tours will be spent on those tours?

Mr. Caven: To a degree, you already have that in place, again through the Canadian Transport Commission. We have no jurisdic-

tion whatsoever over airlines. On any package, if it involves an airline, they must do a filing along with the wholesaler through the Canadian Transport Commission. One of the requirements is that these funds are placed in a trust account. I think perhaps a good example is Laker airlines. We had the power to freeze those funds. We froze the funds on Laker—\$4 million.

12:10 p.m.

Mr. Philip: What has happened on Fairway, then?

Mr. Caven: Fairway did not operate the same type of package. It did not operate with the CTC.

Mr. Philip: So the wholesalers which are under your provincial jurisdiction—

Mr. Caven: Yes.

Mr. Philip: —have no escrow kind of arrangement.

Mr. Caven: They are under escrow—

Mr. Philip: The question I am trying to ask and you seem to be trying to avoid—

Interjections.

Mr. Philip: He has not answered the question, you know that.

Mr. Gillies: You have only posed it three times.

Mr. Philip: I am sorry if you have so little concern for the travel agents in your own riding; at least I have concern for the ones in mine.

Why can you not develop a system in this province whereby money that is spent on tours by travel agents goes into a trust account of some sort and is guaranteed then to be spent for the trip for which it is paid?

Mr. Caven: On approximately 80 per cent of all the tour packages the travel agents are selling, such accounts do exist. It does not happen to come under our legislation, but these are the frozen funds of Sunflight-Skylark, Laker and Chieftain-Shamrock. These are trust accounts and in every case to date—though we have not been to the courts again on Chieftain-Shamrock, I see no reason those will not be declared trust funds. They are established; they are labelled as trust accounts. Those moneys do go back to the travel agent and/or the consumer.

Mr. Philip: Those trust accounts, though, were established after the bankruptcies.

Mr. Caven: No, those trust accounts have existed because they are required to have them under federal rules, not under provincial legislation.

Mr. Philip: Can we deal with the ones under your jurisdiction for once and stop avoiding the question? Why is it you cannot develop, under those that are under your jurisdiction, a trust system so the travel agents' funds on behalf of their clients are protected?

Mr. Caven: I think the system is already in place and I think it works very well because no consumer, since this act has come into force, has lost any money, and I include the—

Mr. Philip: It is a great system, but the agents are certainly losing money because of your system.

Mr. Caven: The agents are participating in it. You may be getting some static from some, but the industry as a whole, with which we meet at least once a month, is backing the fund to the hilt. It was the industry that made the recommendation we increase the fees on the fund.

Mr. Philip: The industry has also indicated you must do something about the wholesalers because they are tried of paying increasing premiums. Is that not the case?

Mr. Caven: On an individual basis I have heard from one or two agents. If you are asking whether I have heard from the industry, the answer is no.

Mr. Philip: Are you saying that at a meeting with the association they have not presented that view to you? That is interesting because they have put it in their publications.

Mr. Caven: On what basis?

Mr. Philip: On the basis that they are tired of your—

Mr. Caven: They are trying to work one out—they have not come forward with any package, any program or any concrete suggestions. Neither one of us likes it, whether we be at the government or industry end. It is not very pleasant to have to go through all this, but nobody has come up with ironclad or even semi-ironclad proposals. We will meet with them tomorrow if they come up with something.

Mr. Philip: Do you not think that you as the registrar have some obligation in coming up with a proposal? We protect other kinds of investments, by putting them into blind trusts until they are used for the purpose for which the money is paid, under other sections of this ministry. Do you not think you have some obligation to have some creativity to come up with a similar system to protect the travel agents in this province from the kinds of constantly increasing premiums they are facing for insurance?

Mr. Caven: I have one suggestion and, if I were to go that route, you would then get far more calls from your travel agents than you are now. That suggestion is trust accounting. But as soon as government starts talking trust accounting, which was started in 1974, the industry and the small agents want no part of trust accounting. We cannot have it both ways. If we want an ironclad method, then trust accounting—good old-fashioned, ironclad trust accounting—can be implemented; no problem. But the industry itself will raise a hullabaloo if we go that route. It does not want trust accounting.

Mr. Philip: The agents I have talked to have advocated it, but you must be speaking to different agents. They are tired of the premiums going up, they are tired of your abominable record of one wholesaler after another going under. They are waiting for the next shoe to fall, the next wholesaler to go under and the next increase in their premiums.

With the greatest of respect, your record is not a hell of a lot better than the registrar of mortgage brokers in this province.

Mr. Chairman: Excuse me, Mr. Philip. Mr. Simpson would like to add something to what you have just said.

Mr. Simpson: Since my respect for Mr. Caven and his ability knows no bounds and, as far as this industry is concerned, the supervision, as far as I am concerned, is tops through our financial inspection program, what I wanted to indicate was that I have been a participant in a number of those meetings with the industry.

Our relationship with an individual agent may be rocky at times. There are times when it is rocky with an individual agent because we charge them \$2,000 for being late with their registration and we get into some tangles. However, our relationship with this industry as a whole, through the industry's association, is excellent, bar none.

I have been at the meetings. I cannot remember the number of times we have talked of trust accounting and that kind of consideration. The industry preference always has been to bankroll a fund through the relatively simple way it can bankroll that fund now and be able to tell consumers, right off the top, "You are going to get taken care of and you are going to get paid quickly."

With the exception of Sunflight and Skylark, that has been the case. They would sooner do that and provide that kind of assurance than get into a system of trust accounting of the rigour

that would be necessary, with the attendant cost for small agencies of bookkeeping and the cost of working capital.

We would still be stuck with what is essentially an uncontrollable thing and that is the auditing of the trust accounts. The trust accounting is only as good as the diligence and the systems of the individuals keeping them. We know darned well that in a huge corporation—or even a small one, you do not have to be a big one—with the movement of people in and out and through that organization, taking a point in time and analysing that trust account to figure whether it was in good shape is an almost impossible task.

We share with the industry the concerns over losses. No one wants them. I think you should also remember this industry's volume is over \$2 billion a year and growing at about 10 per cent a year. I reckon the volume over the last eight years since this industry has been in effect is probably over \$12 billion in flowthrough. I suspect that over the eight years there have been passenger movements and trips of about eight million in number, because I believe there are about a million transactions a year in the travel industry in this province.

The losses are regrettable, but they are understandable. They are explainable in a business context by and large. Those that are not explainable in a business context are dealt with through the courts and through the other judicial processes.

This is one area where the industry is to be commended as well. Several years ago the industry, on its initiative, voted to appropriate large sums of money out of the compensation fund for financial inspections. The financial inspections of this industry, I think, are about 1,200 inspections a year on 2,400 registrants. They are paid for by the compensation fund by the appropriations supported by the industry. The funds total \$140,000 a year. In fact this year there is no limit. There are no conditions put on that money. These inspections are done by topnotch outside accountants.

Mr. Philip: I think I will probably have, and I hope I am wrong, a déjà vu. You are here again talking about the next one. Again, I suspect from your answers that no action will have been taken by that time either. I hope it will not be next year, but it may be in next year's estimates. I have no further questions.

Mr. Chairman: Thank you, Mr. Caven. As of 12:30 today, we will have two hours left in our estimates. Normally, we would have quite easily

concluded tomorrow afternoon. I was wondering whether the committee would entertain the idea of adding half an hour, from 12:30 to one o'clock.

12:20 p.m.

Mr. Breithaupt: It will be difficult, because of the bicentennial events which are under way now, to hear ourselves much less to proceed very quickly. I think we likely will have only an hour tomorrow, once the Treasurer's statement and question period are completed.

I am quite prepared—I have just two more questions to ask in this vote—to have this vote carry and then discuss technical standards, where the only question I would like to ask is about the propane safety and how that is coming along. Those votes can then carry, so far as I am concerned, and I guess we would more or less be back to the schedule I suggested. Clearly, in each of these other areas—other than perhaps the property rights one, and perhaps even that—I am sure members have various points to raise.

Mr. Chairman: Fine. I think we should return to vote 1502, and I think we have just about concluded item 6 on business practices.

Mr. Breithaupt: The only question I would like to ask on item 6 is on the matter of the long-term or lifetime memberships. I am reminded of the Vic Tanny situation, in Kitchener, St. Catharines, London and many other communities. What system does the ministry foresee that would protect funds paid in for these long-term commitments, whether they are health clubs or dance studios or whatever?

I understand some consumer legislation in other areas is worked on the basis of annual renewals or payments within a couple of years, as opposed to the very long term, upfront payments that could be at risk. Is there any plan under way to bring this long-term or lifetime membership into a readily understood pattern that would benefit consumers?

Hon. Mr. Elgie: This is a matter I asked Mr. Simpson's area to review for me. Perhaps he can bring us up to date on what has gone on to date in their study of it.

Mr. Simpson: Thank you. This area, which we generally call "pre-pays," covers the whole practice of putting money up front, and is one that causes us difficulty from time to time. We all know of examples. It tends to be rather cyclical for some reason, depending on the nature of the economy. Some of these things, like the health studios and so on, are a vanity

kind of thing and for some reason they tend to go in waves of being successful or unsuccessful.

We have been looking at a number of situations, the alternatives ranging from the more obvious ones of more consumer education right up to full regulatory systems with bonding and compensation funds or escrow or trust accounting and things like that, with all kinds of things in between. Some of the obvious ones in between are limits on the length and the dollar value of contracts. You might say in a certain area you simply cannot sign a contract for more than a year or for more than a certain sum of money; that you cannot have concurrent contracts. It gets a little tricky because there are many ways to do it, but you look out for things like that.

We have looked at and are looking at a number of those kinds of things. Another one, which probably would be the toughest of all, would be strictly a pay-as-you-go kind of forced arrangement, where you only pay in accordance with how you use it. We are not attracted to the ones involving trust accounting and so on because you simply cannot police it. You could try, but it becomes almost Mission Impossible.

You are back to looking at things such as limits on the length and duration rather than anything else. It is not something we have concluded our deliberations on by any means. When you are looking at prepaids, it is an area where, unless you are very selective as to how the law is going to apply, you get into situations. An example I can think of is where there are individuals in business maintaining swimming pools or maintaining one's garden. They will come four times a year, put fertilizer on your lawn and stuff like that, and charge \$100 or something.

Some of the schemes you could create to try to protect against that sort of prepaid situation would simply add more burden to these individuals than the thing is worth. These people have never hurt anybody in their entire life; they would not dream of having the customer lose any money. As we work our way through it, we are trying to steer a course of being mindful of something that would help to limit the risk, but at the same time not impose operating requirements on small companies that are not realistic and which we could not effectively police.

Mr. Breithaupt: Finally, the minister would be disappointed if I did not ask him at least something about kickboxing. We have the report and the news release of July 22, with the recommendation made to you—

Mr. Cassidy: I am not sure where kickboxing comes in.

Mr. Breithaupt: I can assure you it comes in right under this.

Mr. Cassidy: Under technical standards?

Mr. Breithaupt: Not yet.

Mr. Cassidy: Under business practices?

Mr. Breithaupt: I wanted to ask you a question with respect to the regulation and monitoring and what you can report to us briefly on the procedure for those many thousands of people who apparently have an interest in this pastime.

Hon. Mr. Elgie: I must say I suspect I reflect your own views when I express my surprise at the number of people who have signed petitions in the area of kickboxing, unless you were one of those signatories, and I do not recall noticing your name.

Mr. Breithaupt: I never sign petitions I bring in.

Hon. Mr. Elgie: You brought it in, but you did not sign it.

Mr. Breithaupt: I did my duty.

Hon. Mr. Elgie: I guess the situation is very straightforward. The ministry had been in discussions with kickboxing groups about regulations. When the matter was brought to the level of cabinet, serious concerns were expressed about the hazards of exposing people to being kicked in the head. I do not think that is an unusual concern to express. Because of that, a study was carried out by Dr. Alan Hudson, Dr. Michael Schwartz and Ken Hayashi, a martial arts expert. They reached several conclusions.

They commented on their general, overall concerns about boxing as a sport, a sport that primarily is aimed at—and I have to show my own bias here, being a neurosurgeon—injuring the brain, when we protect so many other areas of the body so assiduously and penalize people for blows below the belt. We do not seem to have the same concerns about blows to the brain. I suspect it is because we do not see what goes on in the brain from a blow.

Nevertheless, accepting that boxing is a sport that has centuries of acceptance—whether that means it should be there for time immemorial is another issue—and accepting it is here, they set out to propose some standards that would at least make kickboxing as safe, and I use the word with some reservation, as boxing is, as a sport.

One part of their review was to conduct a scientific study—I think a biophysical study—

on the effect of blows to the head from the foot. Where in the past I had expressed the view that I had never seen anybody kick off a football with his fist, and I suspected it was because one could get more power with the foot, they did indeed confirm in their studies that when the head is in a lower position than in the erect position, the blow to the head is much more severe than a blow applied with a fist.

Part of their recommendations involve some rules with respect to using the foot and penalties if it is applied when the body is not in an upright position because, at that point, according to the studies done—studies which I might add are being reported to the American Neurosurgical Association—apparently the blow to the head has no greater impact in terms of the brain than the fist would. That is in the erect position.

We have been working on those regulations and, as I indicated two or three months ago, we will be passing them to allow kickboxing to proceed under those regulations. We also have the intention, and I am not sure at what stage we are at, of requiring medical monitoring of people who have been, for want of a better word, dazed or where in some way some injury of the brain has been indicated as a result of the blow. Those people would be required to go through a series of tests, including a computerized axial tomography scan, a new type of procedure, in addition to other neurological examinations.

12:30 p.m.

I believe at some stage we will have to place before the public data on what blows to the brain do so there can be a thorough public discussion on whether or not we, as a society, think that simply because we cannot see the brain we should not worry about it in boxing events.

We are proceeding in that area and we are doing it in the face of what I think is almost an international concern about this sport, which is being expressed by medical associations throughout the world, including the most recent meeting of the World Neurosurgical Association. They expressed the view that serious consideration should be given to the value or lack of value of that sport to society in general.

Mr. Chairman: Thank you. I think this is a good time to pause in our deliberations. The meeting is adjourned until tomorrow when we will resume.

Mr. Breithaupt: Mr. Chairman, before you adjourn, do you wish to—

Mr. Swart: Are you sure we are adjourning. You had made a request—

Mr. Chairman: Well, Mr. Breithaupt suggested that we would.

Mr. Cassidy: Mr. Chairman, people may want to go on. I have been thinking about it since it was raised a few minutes ago and it may make sense to go on to one o'clock; then, even if the committee has to self-destruct at six o'clock tomorrow, we would have accomplished this much.

Mr. Mitchell: I would suggest if the happenings outside become overbearing we will adjourn, but let us try to wrap this up.

Mr. Chairman: Are you finished Mr. Breithaupt?

Mr. Breithaupt: Yes, thank you.

Mr. Swart: I wanted to deal with administered prices and the need for an ombudsman, a public advocate. We discussed this in the House the other day. I say to the minister, as a result of one of his comments about the Canadian Radio-television and Telecommunications Commission, the simple fact is, it is not a fair body, in that the public interest is not represented at these events. I am talking about the CRTC. I am also talking about the Ontario Energy Board hearings, Consumers' Gas prices and so on. There is a tremendous imbalance between those promoting increases and those defending the consumers.

However, because of the shortage of time, I am going to bypass that issue, but I would like to have some discussion with the minister about the preferred body shop issue. He will recall I wrote to him earlier in the fall. He replied to me and expressed some concern of his own in this regard. I know he is familiar with the fact that almost all of the insurance companies—more and more—are giving their business to one, two or three body shops. This is happening in most communities in this province.

There is no public tendering. No one knows why they may give the business to those body shops to the exclusion of others. We do know they demand discounts from those body shops, and perhaps the one that gives the largest discount—there may be other reasons—gets their business.

We are all aware at the present time that most of the body shop business is insurance business. It goes without saying that because the insurance companies are so powerful, they can demand almost any concession from the body

shops, because if that body shop loses its business, it is out of business.

There is no case of equality here or of public tendering to these body shops so that every six months of every year they send out asking the body shops for quotes. It is simply not done. They will pick two, three or four body shops. I am thinking particularly of the Co-operators insurance company in St. Catharines. All of the insurance companies in that area, with perhaps one exception that I know of, have their own select body shop or shops.

A big company like Co-operators has right on the wall of its main offices a list of four companies out of 50 in that area they recommend. It is a pretty strong recommendation to use these body shops. In the body shop organization generally, there is objection to these procedures. I know the minister is familiar with this. I am giving this explanation for the sake of the other members of this committee who may not be quite so familiar with it.

Because of the relationship vis-a-vis the giant insurance company and a small body shop owner, it seems to me there may have to be some regulatory intervention or at least the use of the clout of your office to see this practice, at least in its worst form, is deterred.

I recognize the desire of insurance companies to keep costs down and have good jobs done. But it has come to the point now where somebody may be happy with the work at a particular body shop, but the insurance company says to him, "No, this is the one you use. If you do not go there, we are not responsible." Extensive pressure is put on the car owner to take his car to that particular shop.

The minister has expressed some concern about this himself and was going to do some further investigation. I would like to have a response from him on this at the present time. What is taking place is not really in the best interest of free competition. It is another case where we are losing the kind of competition we had. I recognize the difficulty of any system being perfect. Nevertheless, I am concerned about this. The insurance companies are using their clout unreasonably to force the body shops into knuckling under.

Hon. Mr. Elgie: We did have some brief discussion on it. I am sorry we had wrongfully assumed we were finished with that part of it. It comes under Mr. Thompson's jurisdiction and that of his staff and, unfortunately, they are not here. I can only say I did express some concerns.

Like you, I think one can only commend

people who are trying to keep costs down. That benefits the consumer in terms of premiums. I was concerned there was some exclusivity that might be seen by the public as indicating that only these shops were performing good jobs at reasonable cost and that other legitimate enterprises would indirectly, therefore, be criticized for not being able to perform that work.

The superintendent of insurance was looking into it, but I have to be frank with you and say I have not yet had a report from him. I will jog him and get it. I cannot give you the results of the discussions he has had at this time without his being here. I apologize for that. I did not think this would come up at this stage.

Mr. Chairman: Have you concluded, Mr. Swart?

Mr. Swart: I presume I can conclude that the minister is handling this.

Hon. Mr. Elgie: Yes, we will follow up on it.

Mr. Swart: You will have a report on it?

Hon. Mr. Elgie: Yes.

Mr. Bradley: I have two specific questions to ask. I can be relatively brief. Both issues are perhaps to a certain extent past tense.

The first is the Jobmart issue. The minister will recall that in the House some time ago I asked him a number of questions about agencies such as Jobmart. I know he received letters from various people about this. There was a lot of newspaper coverage at one time. When unemployment was at its worst, there were people who were, in my view at least, an editorial view, taking advantage of those who were down and out by charging them \$50, \$70, \$100 or whatever to have their names listed for available jobs.

12:40 p.m.

This is something we presume the Canada Employment and Immigration Commission does federally, and there are what we call legitimate employment agencies that deal in employment. I know the minister had a difficult time taking specific action because one has to contravene the law of the province or the land before he can take action. I would simply like him to bring us up to date. It appears to have faded from the scene to a certain extent now. Some of these agencies fled from the communities when there were demonstrations out in front of them. A lot of them seemed to be carrying on activities that would border on fraud and certainly misrepresentation. Perhaps the minister could bring us up to date on what action his ministry did take and what the present status is.

Hon. Mr. Elgie: It has been some months since we discussed this, but Dave Mitchell, who is here, can elaborate on it. My recollection is that we did carry out some investigations of some of the firms. We found in the specific cases we looked at that they were delivering what they said they were delivering.

They were indeed not exclusively gathering data from the Canada Employment and Immigration Commission or simply acting as a subsidiary office of Employment and Immigration. They were indeed contacting employers and were keeping their information up to date in terms of opportunities. David can elaborate on that for me.

Mr. D. L. Mitchell: We executed search warrants at three different Jobmart locations. We found their records were in pretty fair shape. We felt if we were to make a case under the Business Practices Act the case would have to be made that there was nothing being delivered for the buck. If their job listings were badly out of date, where a person was looking at the list and hoping to get a job and making the follow-through to find there was no job available and had not been available for a number of weeks and that it had been previously filled, that is where we thought we would make our case. We found their records were in excellent shape.

They were delivering no more than they said they delivered. They would provide a list of jobs. If they were in a position of guaranteeing work, that would probably fall under the Ministry of Labour and it could be caught by that ministry by its current legislation.

Mr. Bradley: Whether they had it written out or not, the impression one would gain from the newspaper ads was that there was a guaranteed job available to them.

Mr. D. L. Mitchell: In any event, in the literature we looked at, even the ads we looked at, they were not offering that guarantee. There may have been some inference, but we did not have a hard case. What they did as a result of our intervention was to guarantee a refund, if they were not able to place you in 90 days. If you did not get a job within 90 days, they would give you back your \$50. I think it was \$50 at the time. They started doing that. There was a condition placed on the consumer that the consumer must contact them daily for a job.

They have largely disappeared. Perhaps a slight upturn in the economic conditions has caused that in part. I would like to think our surveillance may have caused it also.

Mr. Bradley: Very briefly, I am pleased. I know the minister responded quickly to this one when I asked him about it. I guess it is an ethical or moral observation I can make. I find it reprehensible that people would take advantage of others who are in desperate circumstances by providing a service which, in my view, is not necessarily a service.

I understand what Mr. Mitchell is saying and I accept the fact you are obviously going to do a thorough investigation and you have to act only on the evidence you get and only in cases where there is a violation of the law. I accept that. One cannot sometimes act in moral cases, when we feel they are violating what we would consider to be a moral law.

You are right. Your investigations, along with the protests carried out by labour councils and others across the province and harassment—and I say that in the best sense of the word—from news media people who ensured these people were operating correctly, really ended their usefulness. The conditions became so difficult for them to operate that they had to bail out of the whole operation.

I am glad that is behind us. As I say, I just pass a moral judgement, if I may. As a member of the Legislature, I find it reprehensible that they would get into this business. At the same time, as the minister knows, I do not want to reflect badly on legitimate employment agencies which are, in many cases doing a good job.

Hon. Mr. Elgie: I respect your integrity in this matter. I am glad you did not raise this as an issue because there are some who are doing legitimate business in that area. One must be careful.

Mr. Bradley: I have another question on another topic. I remember Mr. Mitchell appearing before the standing committee on public accounts.

Hon. Mr. Elgie: This is the famous Dave Mitchell.

Mr. Chairman: The famous investigator.

Mr. Bradley: He did an excellent job at the time.

I wanted to say that we have come a long way since Jim Breithaupt's initial question on Re-Mor. Some of us got involved up to our necks in the Re-Mor and Astra investigation because many of the people affected were from the Niagara Peninsula and Kitchener. I recall that the initial questioning in this very committee took place under the initiative of the member for Kitchener.

Mr. Breithaupt: It seems a long time ago.

Mr. Bradley: I want to go on record as saying that I was pleased when the member for York East (Mr. Elgie) became minister, because we at long last had justice for the victims of the Re-Mor scam.

As members of this committee we are not allowed to pass judgment on sentencing or court cases, so I will simply offer a general comment. One always hopes that those who lose money through a scam are reimbursed through the judicial system, that whenever a scam takes place, the courts deal with it in appropriate fashion. It is unfortunate we are not allowed to say what is, in fact, an appropriate fashion.

I was dissatisfied, minister, with the way your predecessors dealt with the issue. The assurances your predecessor, Mr. Walker, gave to this committee were, in my mind, not assurances at all.

I am pleased the Ministry of Consumer and Commercial Relations and the Ontario government acted, following instigation by members of the opposition, the Ombudsman, the news media and members of their own party who, though less public than we, also put considerable pressure on the cabinet. All helped bring this matter to a suitable conclusion.

I regret there were those who died along the way, who were unable to take advantage of this justice. Others were dragged through two or three years of anguish over lost funds. We in the opposition can say that three years after we started plugging away at this the government did, finally respond. While I condemn the government for its slow response, I congratulate and thank the present minister for bringing about the solution we felt was necessary from the beginning.

Hon. Mr. Elgie: The issue still unresolved, regardless of what the Ombudsman found, is whether or not the existence of Re-Mor investments in Astra Trust played a significant role in the process.

12:50 p.m.

The Attorney General (Mr. McMurtry) will decide what the government will do with respect to the rights it has obtained as a result of the settlements. I am pleased you feel, though, that the process has provided some degree of justice for those people.

Mr. Cassidy: I am waiting for a couple of votes down, Mr. Chairman. Perhaps we can

move down to 1504 because otherwise I might not have a chance to raise that tomorrow.

Item 6 agreed to.

Item 7 agreed to.

Vote 1502 agreed to.

Mr. Chairman: We will now deal with the supplementary estimates of the ministry.

On vote 1502, commercial standards program; item 8, investor compensation:

Mr. Breithaupt: Mr. Chairman, my only question on the Astra/Re-Mor issue, other than to thank my colleague for remembering so far and so long ago when the first question was raised, was the circumstance here as far as the repayments are concerned. Are these all now in process; are the amounts that are to be paid well under way?

Hon. Mr. Elgie: I am sorry. I missed that.

Mr. Breithaupt: Are these circumstances with respect to the compensation all quite in process?

Hon. Mr. Elgie: I believe that all of the people have agreed to accept the compensation program. Is that correct, Bob? That was the last information that I had.

Mr. Simpson: I think that everyone has his money. I think there was one left over, Mr. Breithaupt, and it was an estate. It was not a case of people not settling, it was a case of getting the paperwork done. An elderly gentleman was finalizing the paperwork. But everyone, I think, except for one, has his cheque.

Mr. Chairman: Shall the supplementary estimates of the ministry carry?

Agreed to.

On vote 1503, technical standards program:

Mr. Breithaupt: I have only one question on the vote. This is the one that is always dealt with, unfortunately, rather preemptorily.

I just wanted to ask one question under fuel safety, item 5, and that is with respect to propane-powered vehicles and the requirement that, as of January 1, 1985, stations will not be able to refill unless they carry inspection stickers.

Is there any particular reason why we must wait this extra year, seeing the concern that has been expressed and the several unfortunate accidents that have occurred? Can we not move more quickly than that to deal with a balanced kind of inspection program that will provide the safety we all want?

Hon. Mr. Elgie: Mr. Chairman, may I just take the liberty of introducing the new executive director of the technical standards division,

Mr. Grant Mills, and pay tribute to our previous director.

Grant—and if you need help from Mr. Patterson, he is here—could you outline why the process that Mr. Breithaupt has outlined is staged the way it is timewise?

Mr. Mills: We just did not think we could get the system into operation any more quickly. We have to establish a series of conversion shops. The people who certify the conversion shops have to be well qualified to make sure that what work is going to be done is going to be done correctly. In conjunction with the Ministry of Transportation and Communications we have to certify and train people to inspect these systems. We just could not get it into place any more quickly.

We hope it will become effective in February. There will be a publicity campaign mounted early in 1984 urging people to have the inspection at the first opportunity. We would not want people to wait necessarily until towards the end of 1984. There was widespread publicity this fall urging people to go in and not to wait to have their vehicles inspected.

Mr. Breithaupt: How many units are there at present that have this form of propulsion?

Mr. Mills: About 30,000, we believe, in Ontario. We are very concerned that many will wait until the very last minute, as many do to get a licence renewed. I do not know how many are fleet-operated vehicles.

Mr. Breithaupt: A large number?

Mr. Mills: Quite a large number, yes.

Mr. Patterson: Ninety per cent of them.

Mr. Mills: Ninety per cent are fleet operated.

Mr. Breithaupt: Thank you. That was the only point that I wanted to raise on that issue. I appreciate the explanation.

Mr. Chairman: Are there any further questions on vote 1503?

Vote 1503 agreed to.

Mr. Chairman: We will now move to vote 1504.

On vote 1504, public entertainment standards program; item 1, regulation of horse racing:

Mr. Breithaupt: I would ask one question briefly on item 1. I was interested in the matter of certain trainers who had placed bets against their own horses. Charges had been laid. I would appreciate it if you could just bring us up to date, since I understand the cases were to be heard on November 30. Were they heard and

has a decision been made? Can you just tell us the current situation on that particular event?

Hon. Mr. Elgie: Mr. Crosbie, could you respond to that?

Mr. Crosbie: Yes, minister. Mr. Breithaupt, a hearing was held by the commission and one of the issues that arose during the hearing was who actually owned the ticket. There is civil litigation involved between the parties who invested in the ticket as to who actually owns it. If it turns out that one of the parties who is being brought before the commission in fact has no interest in the ticket, then you might argue that he has no business being before the commission.

Mr. Breithaupt: So it is sort of the tar-baby approach of trying to get rid of whatever is stuck to you.

Mr. Crosbie: Yes. So right now the commission has adjourned its proceeding until the civil litigation decides which parties are actually involved with the tickets.

Mr. Breithaupt: I suppose we have no way of knowing, obviously, how that may be resolved, or what happened to the loser. I just wanted to raise that and I guess at this point we cannot really talk about how this could be improved upon so it does not happen again. I expect it will be the decision and the obligation of the Ontario Racing Commission to sort that out, depending on the results.

Mr. Chairman: Are there any more questions on the regulation of horse racing? Mr. Cassidy.

Mr. Cassidy: There is no time to raise the matter here, but I would just like to ask the minister this. I think the \$20 million which was spent under the racetracks tax sharing arrangement is a fairly substantial amount of money and I think it certainly raises some questions as to who gets it and under what standards it is distributed.

Rather than take the time of the committee here, could the minister perhaps undertake to give to the critics of the three parties, some time in January, a report from the racing commission which would detail where the money goes, who the major recipients are and what the criteria are for distributing the funds?

I think it is an important area because it is an area where inevitably there can perhaps be conflicts of values and some misgivings about the criteria which are used for distributing money to people who, perhaps for other reasons, are relatively well off.

Hon. Mr. Elgie: I think there is no problem with preparing a report.

Mr. Crosbie: It is set out in the annual report.

Hon. Mr. Elgie: It is set out in the annual report? Is that available yet?

Mr. Crosbie: Yes.

Mr. Cassidy: The annual report of the ministry or of the racing commission?

Mr. Crosbie: Of the racing commission.

Mr. Cassidy: In that case, that may answer the question. If that is not adequate, could I ask the minister to undertake—

Hon. Mr. Elgie: If that is not adequate, just contact me. But I would just like to say, in view of your comments—and I know that you probably were not implying it—but I think that this was done by the previous minister, with the support of the government, with the view that the racing industry in its entirety, including the small communities throughout the province, would benefit from the preservation of that whole industry in this province, because it is very important in the small towns and small communities of the province, as I am sure the member knows.

Mr. Cassidy: Is the commission report from last year on the viability of the industry a public document? If not, will you make it public?

Hon. Mr. Elgie: Sure.

Mr. Crosbie: I think I can comment, Mr. Cassidy. It is basically an enrichment of purses. There is another grant that goes to Guelph to aid in equine research, but it is basically enriching the purses of various classes of racing to encourage them.

Mr. Cassidy: Thank you. That is all on that item, Mr. Chairman.

Mr. Chairman: Shall item 1 carry?

Item 1 agreed to.

Mr. Chairman: I think it is a good time now to adjourn.

Mr. Swart: We have, what—an hour and a half left?

Mr. Chairman: Yes, and we should be able to complete.

Mr. Swart: We may not get that, I suppose. Could we come to a tentative decision—it has worked fairly well so far—that we will reserve at least a substantial part of that time for item 8; that we spend not more than half an hour on the theatres branch and then move on to item 8?

Mr. Chairman: In fairness, Mr. Swart, there

are a few other members who have a few questions on votes 1504, 1506 and 1508.

Mr. Breithaupt: The only interest I have under the registrar general's vote is that we should hear, for example, on the vital statistics and a woman's use of her own name—that theme. We were to hear a year ago, as to how the changes were to come into place. I think that is worth being brought up to date.

Mr. Cassidy: If we have to go vote by vote, could we agree on two things: One, perhaps the committee could quietly agree that for the last half hour, if that happens to go beyond 6 p.m. tomorrow, we will ignore the clock. We cannot ask for formal permission but we can just ignore the clock in order to fit that time in.

Interjection: Can't we sit Friday morning?

Mr. Swart: We do not know yet.

Mr. Chairman: We do not know yet. We probably will have enough time for the number of questions we have.

Unfortunately, some of the members who are directly concerned are not here, but we could discuss it first thing in the morning for a few minutes, if you so desire.

Mr. Cassidy: The first thing in the morning? We do not meet in the morning.

Mr. Chairman: Sorry, tomorrow afternoon after routine proceedings.

Mr. Breithaupt: We will be glad to accommodate the member.

The committee adjourned at 1:02 p.m.

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 Breithaupt, J. R. (Kitchener L)
 Cassidy, M. (Ottawa Centre NDP)
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 Gillies, P. A. (Brantford PC)
 Kolyn, A., Chairman (Lakeshore PC)
 Mitchell, R. C. (Carleton PC)
 Philip, E. T. (Etobicoke NDP)
 Swart, M. L. (Welland-Thorold NDP)

From the Ministry of Consumer and Commercial Relations:

Caven, D. N., Registrar, Travel Industry Act
 Crosbie, D. A., Deputy Minister
 Miles, E. H., Director, Motor Vehicle Accident Claims Fund
 Mills, G. H., Executive Director, Technical Standards Division
 Mitchell, D. L., Director, Investigation and Enforcement Branch, Business Practices Division
 Patterson, J. B., Director, Fuels Safety Branch, Technical Standards Division
 Simpson, R., Executive Director, Business Practices Division
 Thompson, M. A., Superintendent of Insurance, Financial Institutions Division;
 Registrar of Loan and Trust Corporations
 Wells, E. J. K., Director, Company Law Branch





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Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations

Third Session, 32nd Parliament

Thursday, December 15, 1983

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, December 15, 1983

The committee met at 4:42 p.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

On vote 1504, public entertainment standards program; item 2, theatres, lotteries and athletics commissioner:

Mr. Chairman: I see a quorum. The committee was on vote 1504, item 2, theatres, lotteries and athletics commissioner.

Mr. Swart: Mr. Chairman, I would like to have the minister voice some opinions on some approaches he is considering on the matter of the videotapes. I know the pornography aspect of it is a matter of concern to us all. Also a matter of concern is the position in which the merchants find themselves, not knowing what they may market and what they may not market.

I, and I am sure many other members of the House, have been contacted by owners or operators of video stores, who are saying: "I am quite willing to abide by whatever law there is, but I do not know what the law is. When I get tapes in, I do not know whether I can rent those tapes out, market them, or not."

As we know, a decision has been made rather recently by a judge classifying tapes that are considered pornographic; but the fact is that new ones are coming in all the time, and what one judge may rule against, another judge may set aside or rule on differently. I am wondering whether there is any thought being given by the minister to having a classification of tapes done so store operators would have some idea of what tapes they can market without fear of prosecution.

Hon. Mr. Elgie: Mr. Chairman, it is not an easy question, as the member knows.

Mr. Swart: No, I am not suggesting it is.

Hon. Mr. Elgie: Yes, I know, because there are even differences of opinion between some parties, as you know. Your colleague the member for Ottawa Centre (Mr. Cassidy) expressed the view that our own Board of Censors, in the area of public viewing, might be snipping a little too much. He said there is nothing wrong with standard sex, but I could not get him to define standard sex that he considered acceptable.

Mr. Breithaupt: Who knows what may be standard?

Hon. Mr. Elgie: All of us, feel we are above standard, I suppose.

Interjection.

Hon. Mr. Elgie: I could not get a definition of standard sex.

Mr. Breighaupt: One runs a serious risk in that.

Hon. Mr. Elgie: One runs a very serious risk in defining that.

I guess the first issue we have to look at, as a government, is the whole issue of the Board of Censors as it exists, and what it deems suitable for public viewing. We think it responds to the community's wishes and we think it is appropriate.

We are now getting into discussions in the area of video cassettes, an area where it has always been traditionally thought that what people see in their own homes is their own business. However, we now have the sense that it is perhaps an area we should be looking at a little more carefully, particularly with people preferring to see movies in their own homes, either through satellite disc mechanisms, pay-TV or video cassettes, rather than in public movie theatres.

Some even suggest, and I think with some degree of accuracy, that there may be less control over what children see in the home, in a number of situations. The parents may be out for the evening and will not know what the children are seeing, whereas at least if they go to a movie, it is classified by the censor board.

So we are certainly looking at it. We are interested in the fact that the United Kingdom in the past two weeks has proposed legislation in this area which would regulate the area of videotapes being shown in private residences.

You suggested they should be classified. I would be interested to know whether you think classification would be the only approach you would take. In other words, would you think a review board should classify something as obscene and allow it for distribution? Would you see it as being a party to the process and that therefore, if one is going to get into the area of videotapes, one would have to approach it in the same way

as one does movies for public distribution? Or do you think one should simply classify whether it is obscene or not and leave whoever makes that determination open to the possibility of being a party to the process?

Mr. Swart: There are two major dimensions to it, and one is whether the films should be permitted to be shown even in private. However, the other dimension, and the one which was pertinent to my question, is the position in which the operators of the video stores are caught in not knowing.

I say this to you quite frankly; I am not being evasive but I am not sure what the answer to this is. Perhaps the classification would give some indication at least to the video store operator about whether he would likely be prosecuted. I realize they still can be. Even though there may be a classification, it still does not prevent there being a different ruling under the Criminal Code. I am aware of that. It does not with regard to theatre, either, does it? So you are in somewhat the same situation.

Hon. Mr. Elgie: No, not quite. I think the censor board has cognizance of what is acceptable by community standards and it thereby deals with those standards appropriately.

Mr. Swart: I am saying, perhaps with my limited knowledge of this, that there could be one community in Ontario, the city of Toronto, for example, where there might be a different community standard from what there is in some other small community. A judge might decide in a small community that something permitted here might not be permitted there. I am saying it does not automatically exclude the possibility of criminal action. If I am wrong, perhaps you can correct me.

However, as I say, I am not sure what the answer is. I would like to get two things from the minister. What are the alternatives you are looking at, and what are we talking about in the way of time? Have you any plans to be bringing in recommendations or tabling a white paper? How are you planning on dealing with this? Certainly it is a matter that has been before us in a very major way over the last few months.

4:50 p.m.

Hon. Mr. Elgie: It is a matter that is under very active consideration. I still have not got an answer from you as to whether part of the classification process should be the classification of obscene films that are then returned for distribution through the mechanism. Do you think that would be appropriate or not?

Mr. Swart: I know very well what you are trying to get me to say. I am not going to say it just because you want me to say it. I do not think I am being unfair in asking you what steps you are exploring at present. How are you going to deal with this matter?

Hon. Mr. Elgie: I will repeat that the matter is under active consideration. I am intrigued you find it difficult to determine whether one should simply classify films and distribute films one might label as obscene. I am sure it is not an issue you have addressed, but clearly it is an issue we will have to address.

Mr. Swart: I think you can go a bit further than you have indicated to me in regard to timing and in regard to what you are exploring.

Hon. Mr. Elgie: I have no further comments, Mr. Chairman. I have answered the question.

Mr. Chairman: Have you any further questions, Mr. Swart?

Mr. Swart: No.

Mr. Gillies: Mr. Chairman, I would like to pursue some questions with the minister. I wonder if the minister has any answers left, period, or whether he just did not have any more answers for Mr. Swart. I will try anyway.

Mr. Breithaupt: Do you have a list of answers?

Mr. Gillies: I have to say to the minister, Mr. Chairman, I share some of the frustration my friend from Welland has expressed. I do not think there are any easy answers in this area.

I did want to share with you the fact that I recently met with a couple of the officers from Project P who are involved in all aspects on pornography from the point of view of the Ontario Provincial Police. Much as Mr. Swart said, the community standards may be somewhat different or more tolerant in Toronto, but the officers pointed out to me that the more raunchy video pornography is much more likely to surface in Welland, Kitchener or Brantford than it is in Toronto.

Mr. Breithaupt: Perhaps even Brampton.

Mr. Gillies: Perhaps even Brampton.

Hon. Mr. Elgie: No, not Brampton.

Mr. Gillies: The officers have pointed out the most intensive police activity in this area is in Metropolitan Toronto, and while it is the central distribution point for the illegal stuff that comes in, it goes out of Toronto very fast. They get it out into smaller cities where they feel the heat is not as intensive. We may have more of a problem with this stuff in our communities than they have here.

I would not hesitate to suggest, and I do not want to sound like a book burner or a rabid pro-censorship person, that there is material in circulation that simply should not be—not a lot of it, but there is some stuff we have to go beyond classifying. It brutalizes and degrades people and I cannot imagine we would want our citizens, especially our young people, to view it. I urge you in considering this matter to consider that. I urge you to consider what I see personally as a deficiency in the Criminal Code definition inasmuch as it defines pornography as having to incorporate aspects of both violence and sexual activity.

In my opinion there is printed material—I know magazines do not come under your jurisdiction, and I have talked to the Attorney General (Mr. McMurtry) about this—on the bookshelves in stores now that is not particularly sexual but is very brutal and in some cases glamorizes—I am sure you have seen these magazines—guerrilla warfare and terrorism, all that sort of thing. To me, some of that is in some ways more distasteful than what my friend from Ottawa might refer to as portrayals of conventional sex, whatever that is.

Mr. Cassidy: I was quoting a justice in the Ontario courts—in my defence.

Mr. Gillies: I am sorry, I did not know you were charged. I think I will skirt that one.

I urge the minister to consider that. There are some very graphic portrayals of brutality in circulation that may not be adequately caught under the current Criminal Code provisions. To the extent that you have some input into this area, I wonder whether you could comment on that.

Hon. Mr. Elgie: I understand the Criminal Code revisions will cover a new definition of “pornography,” if I read correctly the article in the paper the other day in which the Honourable Mark MacGuigan indicated he would be introducing amendments concerning pornography.

I must say I share your concern about a small proportion of the market that I think is giving the public and youngsters an opportunity to see film that does not help us to improve our concept of humanity and our understanding of each other, or to learn to respect each other, so those are certainly things we are looking at.

Let me just emphasize, though, that the majority of distributors—in fact, I cannot think of any I have met with to discuss this in recent weeks—do not have any trouble with the types

of tapes they are distributing. We are talking about a very small proportion of the market. Nevertheless, we face the same problem in the area of the theatres branch where they look at films. A very small proportion of the films there are banned, are taken off the market. So we are looking at it with that in mind, and I think we should be able to present some views on it in the very near future.

Mr. Gillies: I wonder if you or perhaps Mrs. Brown could tell me, what is the definition of “public exhibition” within the act? Does it involve an admission charge or being shown in a public place? Just how do we define that?

Hon. Mr. Elgie: It is public showing or for profit, I believe. Is that correct?

Mrs. Brown: Yes. It is showing to the public, or for direct or indirect gain. So it is not necessarily connected with financial or commercial gain but with any exhibition to which the public has access.

Mr. Gillies: To which the public has access? Okay. I guess what I am getting at, and again this is hard to get a handle on, is that we may have some hesitation about touching the videotapes if they are intended for private viewing.

Hon. Mr. Elgie: Excuse me. We already addressed the issue where there is public viewing of videotapes. Is that not correct?

Mrs. Brown: That is correct. A videotape, for example, that is shown in a bar or a lounge would be under the same jurisdiction as theatrical 35-millimetre film and would have to be prior licensed.

Mr. Gillies: I see. But in the event that something were being shown at a party or a stag or something like this, that is not a public exhibition, then, for the purposes of your act?

Mrs. Brown: Not unless they were charging admission and making a gain from it.

Mr. Breithaupt: Mr. Chairman, it is fascinating to look at the report of the theatres branch this year. It certainly is a great improvement for information, some of which I will go into in a moment.

There are a couple of things that particularly interested me. One was the interesting chart on page 17 that shows that some 30 per cent of the films shown are from Hong Kong. I had no idea, considering that the USA has 32.5 per cent of this total, that such a film industry existed in that community. I presume it is a full range and variety of films on all sorts of topics.

Mrs. Brown: I think there is a growing concern, not only with our board but internationally, about the Hong Kong film product, and I think I mentioned it last year. Until three or four years ago they were basically Kung Fu films or what we call the gentle romance type of films. Three or four years ago a whole new genre of film came from Hong Kong, which was modern crime, sex, drugs and bondage films that were very violent and very sexually violent.

5 p.m.

At the international conference last year the Hong Kong films were a subject of some discussion among the participating countries. We found to our dismay that these films do not play in Hong Kong but are made for the North American market on the assumption that that is what Americans like. The level of sexual violence, bondage, torture and abuse in Hong Kong films is a concern.

Mr. Breithaupt: I was interested in paging through—and I recommend it to the members of the committee—the list of films classified for 1982. I recognize some things like *The Sound of Music* and others, but there are a few that, even from their titles—I suppose something like *Mary Mullington's True Blue Confessions* might well be shown at one of the government caucus events—

Mr. Gillies: A political thing.

Mr. Breithaupt: It could be a political conversation. Who knows? I see my old favourite, *The Texas Chainsaw Massacre*, is still with us, but one thing that fascinated me on page 38 is a list of films with Roman numerals for titles. Now my recollection of LXXI-MIV would be 71-1004. Maybe we are making films for the robot market now or something. Whatever would this be about, *Feline Presentations*, made in Canada, and a series of a dozen or so films with Roman numerals as their titles?

Mrs. Brown: This is a very enterprising Canadian who decided the answer to expensive live entertainment in bars and lounges that involved strippers could be much more economically done if we had video cassettes of strippers. They had undertaken to produce a number of video cassettes for exhibition in bars and lounges. They really did not have a plot, so they did not have a title. We had to have some way of identifying them.

Mr. Breithaupt: You could not use a numbered company.

Mr. Gillies: These were made in the Cayman Islands.

Mrs. Brown: I guess some of these numbers are more popular than others. These are simply strip performances for bars.

Mr. Breithaupt: Another disappointment.

I must say I do want to commend the theatres branch for the information that is provided. It happened to notice in the paper yesterday on the comics page, which I never miss, a little fact set out on American movie censors. In 1936 American movie censors rejected as a movie title *Sailor Beware* but accepted as a substitute *Lady Be Careful*. I presume the film was not changed at all, but certainly the title was. I recognize that even in Ontario, and indeed that was a year or two before—I might even say in the midst of a Liberal regime in this province back in 1936—

Hon. Mr. Elgie: That long ago.

Mr. Breithaupt: Yes, that long ago.

Mr. Swart: You do not need to pinpoint it.

Mr. Breithaupt: Titles such as that got to be almost salacious. Now one looks at this sort of stuff and I guess the world is changing and not all for the best, but it certainly is changing. More important, there has clearly been a change in my view from those early days when we discussed in committee a number of ongoing events in the operation of the theatres branch.

As one who is quite prepared to draw the line on censorship where it involves undue violence, the exploitation of women and particularly the involvement of children, I think progress has been made. I think Mrs. Brown and her colleagues are to be moderately commended at the very least for trying to come to grips in some way with this volume of obviously hundreds of items which not only have to be classified in one way or another, but presumably have to be endured, which is even worse.

In many ways, I do not envy you your task. I believe that films, other than the ones with the particulars I referred to, should be classified. Presumably, the marketplace will understand whether they have any value. There are now concerns not only in the video scene, but with the satellite dishes and other amenities that will be almost impossible to come to grips with. With the best goodwill in the world, whether you say everything should be wide open or tightly controlled, that is almost irrelevant because of the technical opportunities. I do not know how you are possibly going to handle that any

more than the television violence themes the late Miss LaMarsh had to attempt to come to grips with, although those obligations were largely federally oriented.

You mentioned an international conference. Is this a continuing kind of opportunity that attempts not only to pin down the sources and types of films, where they come from and something about the market in which they are made, but also brings you up to date with the standards of other like or unlike societies?

Mrs. Brown: There is that to it and, perhaps most important of all, it brings us abreast with the current sociological research on the impact of certain types of film content on even normal audiences. In the light of that, we assess our guidelines and address things we perceive to be common concerns.

I believe that is why up until 1980 we were basing most of our decisions on federal Criminal Code provisions. It was when we undertook to study what the community was concerned about and what current sociological research was dealing with that the emphasis switched from what we considered to be consensual sex to a greater concern about violence, particularly sexual violence and children.

I think we are unique in Canada in placing a priority on violence and children as opposed to the Criminal Code provisions in our interpretation of community concerns. In that way, I think we are in step with other countries, because that is where the priority is in the Scandinavian countries, certainly in England, and in other European countries as well.

Mr. Gillies: By way of supplementary, Mr. Chairman, Mrs. Brown, is it still the case, as I think I heard several years ago, that there is a slight difference in attitude even among the provinces and that a lot of the tapes coming into Ontario that we may not particularly view positively from a community standard point of view are coming in from Quebec and British Columbia?

Mrs. Brown: That is correct. I believe the Attorneys General in BC and Quebec have almost opted out of the majority of the federal code provisions. The standards and the interpretation of obscenity in these two provinces are different from the rest of Canada.

Mr. Gillies: So they are not even following the Criminal Code provisions?

Mrs. Brown: They have opted out of a number of the provisions.

Mr. Gillies: That is quite a problem then, isn't it? It is not even a question of catching the stuff at border points. It can actually be travelling quite freely within our own country.

Mrs. Brown: That is correct.

Mr. Williams: On the other hand, I understand that whereas the maritime provinces, in particular, used to accept pretty well the community standards we applied in Ontario as taken, in recent times those provinces have felt the community standards we now apply are a little too liberal for their thinking in that part of the country and they no longer accept as a matter of course the standards we are applying. Is there any substance to that observation?

Mrs. Brown: Some of the provinces that had automatically accepted Ontario board decisions are now making additional eliminations.

5:10 p.m.

Mr. Breithaupt: I suppose many of them are quite prepared to use our machinery and setup, as the smaller provinces do in many other areas of statute and preparation, to copy what had been attended to here.

Mrs. Brown: I do not think it was the board's decision in these cases. It would have been the distributor of the film who, once the Ontario board had made the decision of classification and any required elimination, felt fairly secure about not being charged in other provinces. It would be the distributor who would send the Ontario version to the other provinces.

Mr. Williams: To take that a step further, if there is substance to that observation of these other provinces taking a different position with regard to using Ontario as a sort of guideline in rejecting that situation and taking new attitudes towards our position in this field, have they given an indication of how our standards became unacceptable to application in their jurisdiction?

Mrs. Brown: I would say the areas in which they feel we have relaxed somewhat would be in the portrayal of what we would call consensual sexual activity. Obviously, we are very careful that we would not licence any content that would be a Criminal Code matter, but I believe we are closer to the line than we were three or four years ago.

In other words, in terms of consensual sex, the board is approving more than it did two or three years ago, but the emphasis, again, is on violence and children.

Mr. Gillies: Mrs. Brown, did you, in fact—

and I have heard both versions of this—ban Not a Love Story?

Mrs. Brown: No, I did not.

Mr. Cassidy: You banned it in theatres across the province.

Mrs. Brown: We did not release it for commercial release.

Mr. Cassidy: Which is known as a ban. It is just like when you banned *The Tin Drum*.

Mrs. Brown: No. The National Film Board submitted its marketing plan to us, which involved public, noncommercial exhibition as an educational film throughout the province. We have honoured that. We have never refused a permit for public exhibition. We have issued hundreds of permits—

Mr. Cassidy: But you banned it for commercial display, did you not?

Mrs. Brown: No. We did not issue a commercial licence for that.

Mr. Cassidy: Exactly, so you banned it.

Mrs. Brown: No. A ban might—

Mr. Cassidy: A ban is a ban. I understand it is available.

Mr. Crosbie: The request that came from the National Film Board was that it was not going to be distributed publicly, and we did not apply for a public distribution licence.

Mr. Cassidy: As I recall, it was shown publicly in Toronto in a commercial establishment, but the censor board made it absolutely clear that it was not going to permit that. It is totally abnormal that a particular film should be singled out for this kind of treatment and should not be able to get shown through the channels in which most people go and see films.

It may be that there is no commercial interest in showing it. I do not know.

Mr. Crosbie: I am just pointing out that the National Film Board, when it brought the film forward, did so on the basis that it was to be used as an educational film and was not to be put out for general commercial distribution. That was the type of approval it applied for and that is the type it got in every case it was requested.

Mr. Cassidy: Would the censor board approve it if a commercial distributor said, "This is the best way that I know how to ensure that this film," which obviously is considered to have educational value, "would be made accessible to a substantial number of the people who may be interested."

Mrs. Brown: I think it would be conjecture

for me to answer that. I could hazard an opinion that probably they would not. Not a Love Story does contain quite a number of segments that we consider to be hard core footage, which is a Criminal Code matter. Granted, it is done in a documentary and educational format which perhaps justifies it in that particular film.

However, once you issue a commercial licence for hard core footage, inevitably you get more exploitive, less artistic, less documentary-type presentations, which is exactly the same thing.

Mr. Cassidy: With respect, Mrs. Brown, it is the inability of your board, if there is going to be censorship, which I reject, to see these things in context which has been the most consistent way your board has got itself into contentious areas.

The Tin Drum as an outstanding example, as one of the finest films of our generation, was banned by the censor board. Are you proud of that?

Mr. Williams: That is a subjective observation.

Mr. Cassidy: It is not a subjective observation, not at all. It is something which is extremely instructive in terms of telling the whole generation of young people in this country a lot of what happened in the history of things that you and I and the minister are aware of, but that people younger than I are not aware of, in terms of what happened with Nazi Germany. Then it was banned by this—

Mrs. Brown: It was not banned.

Mr. Crosbie: Mr. Cassidy, were you aware that the scene that caused the most dispute in Ontario was never put in the English version because the English complained?

Mr. Cassidy: The law does not allow it. We could have shown the film.

Mr. Crosbie: In fact, I think that the cuts that were asked by the film board were consistent with the cuts the English film censor board wanted. The argument of artistic integrity, I think, was very spurious.

I agree with you that the balance of the film could very well be shown.

Mr. Cassidy: As it was in the United Kingdom.

Mrs. Brown: The film was definitely shown in Ontario except for 36 seconds, which had already been addressed in England under their child protection legislation without any complaint from the distributor. Because it was a board decision in Ontario, of course, it became very controversial, but the issue was the child.

Mr. Cassidy: The issue was also your inability to see things in context, Mrs. Brown.

Mr. Crosbie: Mr. Cassidy, could I make a comment generally? I had the opportunity this fall to visit with James Ferman, who is the secretary of the British Board of Film Censors. That is a private sector organization sponsored by the industry. They set a standard which the industry follows in England. It does not have the power to compel compliance with the standards, but it classifies and censors films in England.

Sitting down and discussing with him the type of thing that was being cut out of films in England left me with the clear impression that Ontario, if anything, is considerably more liberal than what is happening in England in terms of film censorship. Yet we are constantly faced in Ontario with this, I think, misrepresentation that somehow we are some Victorian throw-back that is totally out of touch with the world. It is not true.

Mr. Cassidy: I have some questions to raise, Mr. Chairman. I do not want to spend all my time on this. There have been previous occasions in the last two or three years when these debates came on. Mrs. Brown, I am not sure whether you invited me to lunch or not when we saw each other the other day, or whether you felt it would be damaging to your reputation or to mine.

I have some questions, though, which I would like to pursue about this question. I do get upset over some things like that, just as I got upset when my own kids, who perhaps could have used it, were not able to go and see *Fame* because of the classification of the board.

I do have questions if I could raise them and if it is my turn, Mr. Chairman.

Mr. Gillies: Before we get into that, Mr. Chairman, could I have some clarification. I am still not clear on the original question I asked. The question was, Mrs. Brown, that as no proposition for commercial distribution of *Not a Love Story* was put before the board, as of this date, so none has been rejected? Is that the case?

Mrs. Brown: There was some discussion of commercial distribution, whether or not cuts would be advisable and whether it would have to be cut. The board's recommendation was not to touch the film. It should be seen in its entirety, and the original marketing plan for unlimited public exhibition, noncommercial, would be appropriate. It is now available, of course, through public libraries. Board mem-

bers have gone out with the film many times to help encourage discussions on it and so on.

Mr. Gillies: Sure, and I appreciate that. I have seen the film in that context here with the committee. All I am trying to get at is this. Going back to your original answer, there was not a request, a formal request for commercial distribution, before the board, so it cannot be said to be banned. What I took from your original answer is that, as of this date, such a decision has not been taken.

Mrs. Brown: I am not sure whether it was just a discussion about the commercial distribution or not. Certainly, we came back with at least a verbal response that it would be almost impossible to give commercial bands to the film in its present state.

Hon. Mr. Elgie: As an informal interjection, so that I am clear on this, is there a very formal procedure if somebody submits a plan before you and the board rules yes or not?

Mrs. Brown: Yes, that is correct.

Hon. Mr. Elgie: In the case of this film, that has not been done in this particular context?

Mrs. Brown: I do not believe so.

Mr. Breithaupt: But the attitude may be relevant.

Mr. Gillies: I can see that.

Mrs. Brown: I guess my concern is that *The Tin Drum* and *Not a Love Story* were three and half years ago and 10,000 decisions ago. In that interim we have made 10,000 decisions, all of which cannot be bad. It is not a bad record.

5:20 p.m.

Mr. Gillies: Probably many of those decisions were on matters far more pressing and films that would have been much more requiring of the discretion of your board. Would these attract the publicity? I am sure these are the ones that are always thrown at you.

Mrs. Brown: I think so.

Mr. Chairman: Have you concluded, Mr. Breithaupt?

Mr. Breithaupt: Yes, on this vote, Mr. Chairman.

Mr. Cassidy: I would like to ask the minister, or perhaps the deputy, what is the situation about legislation with respect to the powers of the censor board? As I recall, I do not believe we have seen legislation.

The ruling of the court back in March, as I understand it, leaves the censor board operating in something of a vacuum. It is applying stan-

dards and the basis of its operations has been successfully challenged in the courts. Can you update me? Something may have occurred of which I am not aware, but there was certainly a plan to bring in legislation prior to the end of the session and we have only 24 hours left.

Hon. Mr. Elgie: That decision is under appeal; so the board is carrying on. In the meantime, legislation correcting the areas the court pointed out has been prepared but it will not be submitted this session.

Mr. Cassidy: Do you know when the appeal will take place?

Hon. Mr. Elgie: No, I do not.

Mr. Cassidy: I would like to ask about the question of video pornography. I talked about this during the course of the leadoff. It is clear there are a number of issues and there is concern.

I think it is fair to state for the record in regard to people who are concerned about video porn that there is a lot of exploitation of sex that goes on through the commercial media. There is a small amount in the theatre but a great deal in terms of magazines which one finds in wrappers these days in the local cigar store or local jug milk store. These are areas over which this ministry and the government of Ontario do not have direct jurisdiction.

What, if any, is the position being taken by the federal authorities with respect to the video cassettes, and what studies have been undertaken by the ministry's policy people or by the theatres branch with respect to the great difference in the problems that are represented by the video cassettes?

In Smiths Falls, for example, I think there are about half a dozen distributors of video cassettes. They can be fly-by-night operations. The local garage, a stereo shop or something like that can start to put these on the market. They can literally open up overnight and then close down the next day. What kind of policy studies have you had in terms of looking at the problems that are involved and as to whether any action is required?

Hon. Mr. Elgie: As I answered your colleague the member for Welland-Thorold (Mr. Swart), we are in the process now of actively reviewing the whole issue of video cassettes. As I have said, our view in the past when there was not such a unanimous feeling about the role of the censor board—I am sure Mrs. Brown finds this a different century we are living in now, com-

pared to three or four years ago. Would that be a fair assessment?

Mrs. Brown: Yes.

Hon. Mr. Elgie: As I have said, our previous view had been that what went on in the home was probably private business. As a result of studies that are coming out, and sociological studies and reports that Mrs. Brown has been hearing about as she travels to the various international and regional meetings, we are now concerned that there is an impact on the family and on children, and on the concept of sex, pornography and so forth that may well be out of control.

With the switch to home viewing from public viewing, can you give us an idea of what the change has been over the past two or three years?

Mrs. Brown: In terms of volume?

Hon. Mr. Elgie: Yes.

Mrs. Brown: Until about two years ago, I believe, theatrical film took up about 70 per cent of the market; now it is 55 per cent. They anticipate in two or three years it will be about 30 per cent, and 70 per cent will be home video, television and that sort of thing. Obviously, the impact is going to come from the other medium.

Hon. Mr. Elgie: It is becoming a bigger issue because of the problems Mr. Breithaupt mentioned, namely, that we cannot control the discs and there is the issue of pay TV, which is beyond our scope and authority. However, we are actively looking at the whole issue. Do you have any comments in addition to that?

Mr. Crosbie: Mr. Cassidy asked about what studies we have done. We have heard, as you mentioned the other day, that the United Kingdom had approached this and apparently had some solution to the problem. I mentioned that I had been talking to James Ferman. Part of the purpose of that meeting was to discuss with them what they were doing with videocassettes. As a result of the studies they have done, they have reached the conclusion that basically the same standards of censorship and classification that had been applied to films should be applied to video cassettes, even those that are for home use.

I saw some preliminary material. One of the proposals was that it be an RX rating, which I interpreted to be a slightly—

Mr. Cassidy: It is a double-X rating.

Mr. Crosbie: Sort of, yes, although the standards I saw for it were very similar to the

standards we have for our own "restricted" classification here. So, as I said earlier, I felt that the British "restricted" was probably a less liberal view than ours, and their RX is now probably coming up to where our "restricted" is.

As a result of their investigations, a bill has been introduced in the Parliament at Westminster to authorize the government to designate a review panel. As I understand it, the intention is to designate the British Board of Film Censors, which I said is a private film industry association, to be the panel that will review video cassettes. They will all have to be marked, and where approval is not given—where it is banned, if you will—then it will be an offence to sell that video cassette in the United Kingdom.

Mr. Cassidy: That are approved or not marked?

Mr. Crosbie: If it is not approved, it cannot be marked; you cannot sell it unless it is classified. It is the intent of the legislation that, once the bill becomes law, all video cassettes for public sale or rental will have a classification marked on them. If it is a banned film, then you cannot put a classification on it and it would be illegal to have it for sale. It is, in effect, an attempt to prohibit the acquisition of films for private showing if they are in the censored or banned range.

They are using the RX classification in Britain because of the peculiarity, I guess, of their own culture whereby they have sex shops that have a prohibition against persons under the age of 18 entering them, and there are fairly substantial signs on the doors warning minors away from them, and they have private clubs where perhaps more liberal activities are allowed. The RX films can be distributed or shown only in those establishments.

Mr. Cassidy: I think you know what my feeling is about replacing censorship with a system of classification, and that has been a position we have been pretty consistent about.

Hon. Mr. Elgie: You would classify them and allow them to be distributed even though they might be considered obscene.

Mr. Cassidy: It seems to me, with respect to the outlets, that there are a lot of legitimate operators who at this point are very confused, particularly after Judge Borins—

Hon. Mr. Elgie: By knowing they are obscene, are they all right then?

Mr. Cassidy: Judge Borins did review 25 or so, and he came up with some standards. He also came up with a list of ones that he felt were within community standards and ones that were

not. In effect, your triple-X list would be saying to anybody who was in business, "Look, don't sell this stuff, because this stuff is obscene as far as we can judge what the courts would do." I think the courts probably would be a good deal more effective.

Hon. Mr. Elgie: So you would leave that up to the police to deal with.

5:30 p.m.

Mr. Cassidy: I think so, yes. They are around. If there are 350 theatres to police across the province, basically they are probably easy to monitor. It is fairly easy to know what they put on night after night. If there are five or six outlets in Smiths Falls, a community with one movie theatre, you could find that there could easily be 3,000 or 4,000 outlets very quickly across the province for video cassettes, and I think it is far beyond the ability of the censor board to be effective in policing.

The police are everywhere, and it seems to me that it would be possible for classification lists to be made available so that there would be some regulation by the industry and by customers, who would say, "Look, we do not want that kind of stuff in your place." If they happened to come across something that should not have been there, something labelled triple-X or otherwise indicated, it would be judged as being obscene.

Hon. Mr. Elgie: Are you not troubled at all by a review board of some sort, classifying something with a reading that they know is obscene and literally saying: "Catch as catch can—if you get caught, that is your problem; we have told you what it is"? Do you not see such a review board having a public role and a public obligation with respect to material they deem to be obscene, since it is an offence to distribute it?

Mr. Cassidy: I think the problems in terms of how you handle this new medium have to be looked at. In your review, you have policy people looking at it. They should look at that question.

Suppose the review board says, "Fine, it is banned." It does not make a heck of a lot of difference in terms of shops that decide they want to sell raunchy and banned material. You still have the problem of possibly 3,000 or 4,000 outlets which could potentially sell that kind of stuff. They could put it into a cassette that says "Disney cartoons," yet everyone in the shop would know to reach down to the bottom drawer when a customer came in looking for hard-core porn.

Hon. Mr. Elgie: Snow White, isn't it? The new Cinderella, or something like that.

Mr. Cassidy: Either way you go, you have problems with it.

Perhaps I could raise another issue which concerns me. Representations have been made by legitimate artists working in the video medium about the interference they get from the censor board with what they do. In fact, this was the group that originally brought the case before the courts back in March.

They suggested, I think quite reasonably, that there should be means by which legitimate artists should have the ability to put forward or show their work without having to go through all the hassle of having to have it prescreened by the censor board. It was suggested that they get either a certificate of exemption for certain cultural educational institutions or special occasion permits, which again might involve an application but which would not involve prescreening or censorship of the actual material.

In both cases, they suggested as a matter of course that if those things applied, they would not be open to persons under the age of 18. Maybe you could comment on that, minister, since it is a matter of policy and since it would help, among other things, simply to remove an area of very legitimate frustration and conflict which I do not think the censor board needs, if it is going to be around for a while.

I do not think that we, as a province, need it either. It makes us look bad, as you know, when these things come up, as they do every year at the time of the Toronto international film festival.

Hon. Mr. Elgie: It is my view that the censor board has gone out of its way to be accommodating to the film festivals involved. I would like Mrs. Brown to explain the—let us be frank about this—special treatment they have been given to assist their programs. However, that does not detract from the role that the board still has.

Would you go over exactly what the procedure has been with the film festival, Mrs. Brown, and perhaps give us an idea of the number of films that have not been allowed to be shown?

Mr. Cassidy: The ones that tend not to be shown always tend to be the ones that just won at Cannes.

Hon. Mr. Elgie: Let us understand the co-operation that there has been, first of all.

Mr. Cassidy: But let us also understand the fact that the censor board has this unerring—

Hon. Mr. Elgie: If you are not interested in whether there is a degree of co-operation shown, then say so, and we will get on with the thing.

Mr. Cassidy: I am looking at results, minister.

Hon. Mr. Elgie: Are you interested in learning about the degree of co-operation and the efforts put forward by the board?

Mr. Cassidy: Provided you are interested in looking at the results.

Hon. Mr. Elgie: Go ahead, Mrs. Brown. Explain it. He is dying to hear you. His sensitive soul is sitting there perched on a limb to understand it and eat it all up.

Mrs. Brown: You have me at a disadvantage.

Mr. Cassidy: You've got to be a bleeding heart, Bob.

Mrs. Brown: The suggestion that Mr. Cassidy has made was implemented about two and a half years ago, when we felt that the artists who had gone into film as an art medium, but were still exhibiting publicly and came under the act, obviously had to have their films reviewed but the physical screening would not be necessary, particularly for limited exhibitions.

It was then that we introduced what we call examination by documentation whereby they applied without having to have the film submitted to or screened by the board. They simply made an application giving a brief description of content and the film was approved on that basis. This has been going on now for about two and a half years, and every film from the art community or exhibition by them is handled in this way.

For film festivals in the past year, we have processed between 600 and 800 films on the basis of examination by documentation so they would not have to send films for physical screening by the board. They were reviewed on the basis of written description and reviews.

In terms of the art community of Ontario, in the hundreds and hundreds of films we have reviewed for them, the only one that has been refused a permit was a short, 12-minute subject called Message from Our Sponsor, which ran into the same trouble in almost every other province in Canada.

Mr. Cassidy: When you review by documentation, do you then snip or refuse in certain cases on the basis—

Mrs. Brown: No, we have not. The only one that has ever been refused or we have required eliminations from has been Message from Our Sponsor, a 12-minute short that was filled with hard-core footage.

Mr. Cassidy: The minister and Mrs. Brown, I am sure, are aware of the representations that have been made by Film and Video Against Censorship, which has quite a distinguished list of sponsors, including the Art Gallery of Ontario, a provincial organization, the Canadian Museums Association, the Ontario Association of Art Galleries and the Professional Art Dealers' Association of Canada. I will not read them all because the minister is aware of them.

While some progress may have been made, is it not possible to implement these specific proposals? Clearly, what exists now is not satisfactory, even if it represents progress over the situation of three or four years ago. I think this is a policy question.

Hon. Mr. Elgie: It certainly is, and I do not think I would ever be prepared to have the board review films that are going on public display for profit treated one way in this area and another way for the rest of the public. I think the board has gone out of its way to be accommodating. If you say the public or the art community is suffering, I would like to have a greater description of how they are suffering.

Mr. Gillies: So would I. If there has only been one short film turned down in all the time, I would like to get a handle on what all the fuss is about.

Mr. Cassidy: I would like to get a handle as well, because it affects the Toronto international film festival, for example. Every September, it seems to me, we get into the same situation where some of the films are not accepted. How does that occur if the procedure you describe is now in force and has been in force for several years?

Mrs. Brown: There is a distinction between what we call the art community and the Festival of Festivals, which brings in commercial entertainment films. Certainly, two years ago we had problems with one called Berlin-Harlem, which had about 36 seconds of close-up of male genitalia being fellated to ejaculation. We had problems with that in terms of community standards.

There was a great deal of media fuss about that decision by our board, and we found it interesting that the same film played about six months later in a porn theatre here in Toronto with the required elimination. The arguments about artistic integrity and the artistic merits of that film were rather discredited. It played at the midnight show, with a live strip act follow-

ing, at the New Yorker. That was the only problem we had, I believe, in two years.

Mr. Cassidy: What is your standard? A number of films have been snipped or cut as far as the film festival is concerned. Do you snip some then? Is that what you do?

Mrs. Brown: No. Which ones do you think have been cut?

Mr. Cassidy: I am sorry. I do not have the records in front of me. I expected to be yielding time to my friend Mr. McClellan and not to be able to spend as much time on the theatres branch. By now you have yourself a reputation that there has got to be one you get every year. It makes us look like country hicks.

5:40 p.m.

Mrs. Brown: I guess one out of 2,000 decisions is not that bad. There was one this year they brought in for the Festivals of Festivals. It was one that was already in commercial release. It was called *The Brood*. There was a violent and rather horrendous scene with a monster being born and the bloody foetus being licked for quite a long time.

When it came through two or three years ago, it was considered below the level of tolerance for widespread commercial distribution. They had decided to play it for the Festival of Festivals this year and there was some discussion about whether or not it would play uncut.

The board's policy is we cannot have two separate versions of the same film playing at the same time. The commercial version had already been in release for two or three years, so it was not a decision for the festival, it was one that had already been made two or three years ago.

Mr. Cassidy: Perhaps I can ask the question: what proportion of the population of Ontario go to films more than terribly rarely? What proportion go fairly regularly?

Mrs. Brown: About 15 per cent of the Ontario population are regular theatre attenders.

Mr. Cassidy: What research do you do about community standards among those people who, in fact, do go to films?

Mrs. Brown: Again, we have to look very clearly at our mandate which was articulated in the McNeil case in 1978-79 which said that the films in public exhibition should be judged on the standards of the community and not just the theatre-going community.

In the light of the current sociological research, which indicates that film violence and sexual aggression do impact or at least motivate even

normal adult audiences, we feel our mandate clearly is to determine the standards of the community as a whole, because they are affected directly or indirectly.

Mr. Cassidy: We are getting back into that general argument, Mr. Chairman. I would like to pursue it, but I think we probably lack the time. With respect to the artist, I have made the point and I think it is legitimate one. With respect to the question of the standards of film-making, I am obviously concerned with the general aspect of censorship.

I am also concerned about the fact that films which may be outstanding, and which may, in fact, be noteworthy to cinema buffs—the people who are extremely interested in cinema, like the audiences of the Festival of Festivals—get snipped, banned, refused or turned back or whatever because of the imposition of standards which do not make sense to people who watch films.

Basically, we are applying the standards of the little old lady from Timmins as opposed to people who are into art. The Festival of Festivals is looking at cinema as art, so you have some inconsistency there. I will cease now because I want to raise some matters later.

Mr. Swart: I was just going to raise a point of order. How much time do we have left in these estimates now?

Mr. Chairman: Half an hour.

Mr. Swart: One half hour. I presume we cannot all watch the clock then and finish this evening, but since we only have half an hour I am wondering—unless there is some great desire—if we could not move on to the Liquor Licence Board of Ontario in the next vote.

Mr. Chairman: I think we should be moving along in the proper order. I do not have any problems, I do not see any questions. We can carry on. Shall item 2 carry?

Mr. Breithaupt: One point on item 2 only and that is to deliver to the minister further information that I am sure he will find of great interest. I received today some 99 letters from persons in the Guelph area who are also interested in one of my very favourite topics, and one of his, which is kickboxing.

This series of letters particularly deals with the theme that there are no objections at all to the sport of kickboxing being regulated. However, the request is made that action on the subject be taken as soon as is practicable. They look forward to an explanation. I shall forward the letters to the minister.

The material was provided to me by Mr. Rodney Willis. He has asked me, as well, to give the minister a copy of the letter sent to me. Perhaps the minister will choose to reply to Mr. Willis and develop the explanation which we received yesterday. I have no further points on that.

Hon. Mr. Elgie: My great-great-grandfather from the city of Guelph would wonder what is happening there, I am sure.

Mr. Chairman: Shall item 2 carry?

Item 2 agreed to.

Vote 1504 agreed to.

On vote 1505, property rights program:

Mr. Breithaupt: Carried without any comment. There are a number of things that I would like to have looked into but there is no time this year at least.

Mr. Chairman: Shall vote 1505 in its entirety carry?

Vote 1505 agreed to.

On vote 1506, registrar general program:

Mr. Breithaupt: Again, Mr. Chairman, there is just one theme that I think we should at least spend a moment on in this vote. That deals with the change of name matters and the circumstances that we have discussed on several occasions as to the use of the mother's name for a child, the changing of the child's surname upon the custodial parent's remarriage, and a number of these other themes that in our changing society apparently are of more and more concern.

As I recall last year, comments were made that it was hoped a number of these problems were going to be sorted out. Perhaps we could have a brief comment on any progress made in dealing with this difficult issue—I am the first to recognize it.

Mr. Cassidy: Mr. Chairman, I guess you get two for the price of one. I put in a private member's bill about this. The case that came up was in Ottawa. They called it their unnamed baby—although she called him Jamie, I think, and has now moved to Alberta.

I share the concern that my friend the member for Kitchener (Mr. Breithaupt) raised. The concern to us was that we were promised legislation during this session; eventually, Mr. Mitchell had to come to me and say there had been delays in the ministry and there was not going to be action now. When will it take place?

Hon. Mr. Elgie: Do you want to discuss the progress that has gone on to date? Mrs. Rosemarie Drapkin is the registrar general—the

deputy registrar general; I am the registrar general, you are the deputy. I have it straight. Okay.

Mrs. Drapkin: Basically, the two private members' bills dealt with the Vital Statistics Act only. It would seem very straightforward to just make that simple change with respect to allowing a mother, at the time of birth, to name the child in her name, the husband's, father's, whatever the circumstances are.

The cabinet submission that we are working on, the recommendations that we are making to the minister, look at the total process of naming or personal names in Ontario. We are dealing with recommendations by the Ontario Law Reform Commission. So we are looking at the Change of Name Act as well.

One of the things we are concerned about is that we would like to make sure there is an option to change the birth names once they have been selected. We are hoping to do this through the Change of Name Act.

We find regularly that a mother puts the child in one name one day, then splits up with the father and comes back and wants to change it into another name. There are a lot of procedural problems with that. So by looking at the Vital Statistics Act and the Change of Name Act as a package, we feel that the whole process of naming can be complemented.

Really, what is taking time is addressing the Change of Name Act, modernizing it, reforming it and then tying in the Vital Statistics Act.

Mr. Cassidy: The bill I had was limited. I think it was rightly pointed out that ideally you had a bill which was rather more flexible than the one I had which addressed the specific problem. Is that your intention, so that all permutations and combinations will, in fact, be permitted?

5:50 p.m.

Mrs. Drapkin: Right, so that we can totally simplify the process. The one thing I would like to point out is that in 1977 we introduced the option to allow a hyphenated surname, where the mother and father could combine their names, so that we would not just be forcing the fathers's surname on the child.

Since 1977, we have had over 800,000 births in this province and only about 3,000 requests for hyphenated surnames. I know there is a demand, but at the same time, it is not really that significant at this point because there are options.

Mr. Cassidy: In this particular case in Ottawa, there were options, but they did not happen to

fit. For that individual and her son, the fact that she was a minority of one or a minority of a handful did not matter. It was still a problem for her.

Could we have an undertaking that if this review, which sounds fairly complex, looks as if it may drag on, interim changes in the Vital Statistics Act could be put through during 1984 so that we do not leave people up in the air for another two or three years.

Hon. Mr. Elgie: I cannot give that kind of undertaking. I do expect this will be a matter I will be taking to my colleagues in cabinet within the next few months. Assuming there is policy approval, it should not be a problem in 1984, but I cannot give that commitment.

Mr. Breithaupt: Thank you very much for the information.

Vote 1506 agreed to.

On vote 1507, liquor licence program; item 1, Liquor Licence Board of Ontario:

Hon. Mr. Elgie: Mr. Willis Blair, the chairman, and Mr. Paul Boukouris, director of the administration branch.

Mr. Breithaupt: I am happy to see Mr. Blair before us today and to raise a couple of issues in the few moments we have on the difficult liquor policy we have in the province. We have the financial benefit to the government that the various taxes on beverage alcohol bring in. We have the difficulties of licensing, and now the courts are putting certain responsibilities with respect to accidents that may occur on the vendor or on the organization that ran the place where some extra drinks may have been consumed by a car driver who then was in a very unfortunate circumstance.

There was a legion branch case down in the Woodstock area—

Mr. Blair: It was the Arlington Hotel.

Mr. Breithaupt: Right. There are a variety of differing circumstances. We see marketing of advertising, only to get the share of their market. We see lifestyle advertising that includes balloons and most of the sports that can be shown on television. Drinking drivers are jamming the courts. We now have a task force under Mr. Erskine, the former commissioner of the Ontario Provincial Police, trying to sort out how to resolve those problems.

Yet in this season of Christmas cheer, we enjoy in an unlicensed premises, room 228 of this building, at least this noon hour, the pleasure of having a pint of Northern Ale, which will

now be available to us, and the marketing of which we welcome within the building.

It is a very difficult horse to ride, to try to sort out licensing obligations, the revenue needs of the government, the social concerns and a variety of particular interests. Perhaps Mr. Blair can tell us how well he has been doing this last year from his point of view in the maintenance of a system which I think should be based on licences being relatively easy to get, but relatively difficult to keep.

Mr. Blair: The number of licensees has increased quite substantially in the last few years, but perhaps the rate of increase has not been as great as it was a few years back. We have about 9,800 or so licensed establishments.

Regarding the responsibility of the licensee—and I hope that was what you were leading into—the incident in Bright, or the court case that levied quite a substantial amount of dollars in damages, certainly focused attention on the responsibility of the licensee to do his utmost to make sure that his patrons are in reasonable shape to drive home when they leave.

Licensees come running to us to say how difficult it is, because a person could be involved in drinking in several establishments in the same evening, and unless he is known to a particular licensee late in the evening, the licensee would not know by his actions whether he had had too many or not.

That is an ongoing problem the licensees have to undertake. They have to do the best they can. It is the same in dealing with minors. We get complaints that the photo cards, almost a sure proof that a person is 19—almost, I say—are perhaps hard to get. That is just not so.

Perhaps I am digressing a bit here, but the number of photo cards has increased quite materially in the last few years. About three years ago, we issued about 54,000. Then it was 60,000. Last year it was 72,000. This year it will be about 94,000.

If we look back 19 years—those who reached age 19 in 1983 were born in 1964—we are dealing with about 60 per cent of those who were born in 1964. The number of people born in Ontario had not varied very much for several years—back in those years, at least. They are coming of age now.

These incidents that happen, tragic as they are, are certainly reminders to the licensees that they have an obligation they have to try to fulfil. By and large, most of them are doing a good job. I would hazard a guess that only five per cent, perhaps seven per cent, are problem areas.

Most of them are very good at discharging their responsibilities to themselves, their patrons and society in general.

I do not know whether I have answered your question or not, but the enforcement of the act is always a problem, and having sufficient personnel to do it is a matter of finances.

Mr. Breithaupt: How many inspectors do you have at the moment?

Mr. Blair: How many inspectors? Forty-eight.

Mr. Breithaupt: You have 48 inspectors to deal with almost 10,000 premises.

Mr. Blair: There are 9,800 licences. That is right.

Mr. Breithaupt: I think it is fair to say that it is stretched somewhat thin.

Mr. Blair: In an urban area such as Metro Toronto, Hamilton or Ottawa, they can cover their territory pretty well, but when you get into the sparsely settled areas, distance is a real problem.

Mr. Breithaupt: How often can you say, then, that the average premises is visited, albeit briefly, but at least on a sufficient routine to get the owner's attention?

Mr. Blair: Nowadays, with the reduction in our complement of inspectors two years ago, if they visit once a year, that is about it—unless there is problem, and it is brought to our attention. Of course, inspectors do help new applicants process their applications, and there is the final inspection—

Hon. Mr. Elgie: Do you not have them on different cycles, too? Two, three, or shorter cycles, as needed?

Mr. Blair: The inspectors themselves know the problem areas, where they have to monitor more frequently than the annual visit. In the main, they are all good operators, except the small percentage I alluded to a moment ago.

Mr. Breithaupt: What would be the largest number of licensed premises that any one inspector would have to deal with?

Mr. Blair: Mr. Boukouris indicates that there is one here with 300, but I know that a lot of them have about 250 or 240, depending on the area they are in.

Mr. Breithaupt: It certainly does not give much of a cushion for supervision where a person has had a visit this week, and really has the likelihood of not seeing an inspector for another year. Yet we are putting quite a burden on the inspectors to try to be current with that

number of locations, and still attempt to do a job that they can be content with.

6 p.m.

Mr. Blair: It is a problem, I will grant you that.

Hon. Mr. Elgie: When the fire marshal's office shift took place, a large number went there. They do have a heavy work load. Part of the answer may be to change the regulation requiring an annual visit. As Willis said, 95 per cent of them had no problem. It may be possible to put some of them on a longer cycle.

Mr. Blair: If I might just comment, the licences are renewed for two years at a time and if we did shift to biannual then we could do it just in advance of the renewal. If they have a problem area, we can at least have a little leverage there to hold over them to clean up their act as it were.

Mr. Breithaupt: Where you are on a two-year licence, that might be a theme that is worthy of looking at because it may at least give the inspectors the opportunity to get rid of the routine visits quite peremptorily and be able to have a cushion of time when they can look into some of the five or seven per cent of their list, as was mentioned, on a much more frequent basis. For example, I think of recent correspondence which the minister has on certain of the activities of one of the favourite watering spots in our area, the Breslau Hotel.

Mr. Blair: That is a bad word in our board, the Breslau.

Mr. Breithaupt: They have great rolled ribs, I will admit to that, having been there on certain occasions years ago.

There are certain operations and attitudes of certain individuals who are in the business which have to be brought to book on occasion to get them into the pattern that is socially acceptable. It is difficult to deal with a place perhaps like that one, where a weekly visit might be a good idea as opposed to once every two years.

Mr. Blair: Also in connection with the establishment that you referred to, if we are going to take action there the offences have to be pretty much liquor related. If it is a matter of adult entertainment, that is beyond our jurisdiction. If the police do not lay charges on which we can respond, then our hands are pretty well tied. That has been the case at the Breslau.

Mr. Breithaupt: I do not envy you the task of attempting to have your inspectors do the kind of job which I rather think you would prefer to

have done. It is very difficult for them to do so in the volume and particularly with the increasing number of licensed premises where this is now a fairly routine availability. Certainly it is not like a trucking licence that has to prove necessity or perhaps even public convenience.

It becomes a routine and if it is treated that way we also have to be prepared to put in at least sufficient resources so that it can be properly reviewed. I think there is a bit of gap developing here and I welcome the minister's attention to that theme as licensed premises increase in number and as we are expecting fewer inspectors to do the kind of job which I rather think the minister would like to see done.

Mr. Cassidy: Mr. Chairman, I want to ask about brew pubs. I have talked with you, Mr. Blair, about this. I guess I have to learn to read the legislation a bit more, but I regret that with respect to Lawrie Trevor-Deutsch, who is a constituent of mine who wants to establish one of these small businesses in Ottawa, that it took from March, when he originally communicated with your office, until the fall before either he or I realized that legislative changes would be needed in order to permit a brew pub because of subsection 6(2) of the Liquor Licence Act.

I am not sure whether I should direct my questions to the minister or to—

Mr. Blair: The minister has a staff person working on this.

Mr. Cassidy: However, I gather there is some dialogue. The minister apparently has been pub crawling in Victoria and is aware of the situation there.

Hon. Mr. Elgie: I did not even taste it.

Mr. Cassidy: What do you mean you did not even taste it?

Mr. Swart: I thought it was in Stormont, Dundas and Glengarry you went pub crawling, was it not?

Mr. Cassidy: It is quite clear that the purpose of the act, which was to avoid the large breweries taking over a lot of retail outlets the way it is done in England, would not be violated by permitting small operations such as proposed by my constituent. I think there are other people who want to do it. As it has been established in British Columbia, I think it is a useful kind of competition.

I would not mind having one or two somewhere in the vicinity of my riding. I think other people might like to have that variety as well. It could help to keep the large breweries on their toes in terms of providing an outlet for new

types of beer to come on the market and, therefore, for the public to register its interest in changes in the market. I would like to know what the position of the government is now and whether we could see the necessary legislative changes early in the next session.

Hon. Mr. Elgie: Mr. Breithaupt was asking just what it was. There are really two types.

Mr. Breithaupt: I remember now you mention the British Columbia effort that apparently they are a small several-person operation, usually of a brewery that has its own pub.

Hon. Mr. Elgie: There are two such brew pubs in British Columbia and they also have what is called a micro-brewery. The type of correspondence we are receiving now deals with both things, micro-breweries and brew pubs. In the area of micro-breweries the issue becomes one of distribution. Discussions with the Brewers' Warehousing Co. Ltd. have been taking place about whether that can be dealt with. The indications I have to date are that it is a matter that could probably be satisfactorily resolved.

Mr. Cassidy: That can be resolved without legislation then.

Hon. Mr. Elgie: I do not think we need legislation in that area.

Mr. Breithaupt: That is, for the micro-brewery putting out a fairly small volume of products, the ability to have that in at least certain shops or retail stores, perhaps in the same town.

Hon. Mr. Elgie: That is right.

Mr. Crosbie: There is a prohibition against a brewery owning a distribution point. It is not a micro-brewery. We could have micro-breweries distributing to nonowned distribution points, but one cannot have a pub owner who has his own brewery in the back room supplying his own beer.

Hon. Mr. Elgie: I was going to get to the second part.

Mr. Breithaupt: The second part.

Hon. Mr. Elgie: The second part of it is that one has his own little micro-brewery and he also has his own pub. In the two experimental brew pubs that exist in British Columbia, they supply only themselves. They have no desire to distribute elsewhere. I find it is an appealing concept. One would have to look at quality controls. They have gone through three months of testing and changing their product for the market. I find it an appealing concept.

As Willis Blair mentioned, we have a member

of staff in the policy division now preparing a position paper on it for me.

Mr. Cassidy: I have somebody sitting in my riding who is a graduate of McGill, a young entrepreneur who wants to take this on and who has put about a year of his time into it. There is a need for urgency in the sense that if people are going to get into this, the impetus for change will come from people who are prepared to go ahead. They cannot wait for ever, because obviously they will tend to be working with small resources.

Hon. Mr. Elgie: We are looking at it seriously, but there are some side issues one has to consider. It is my understanding, and correct me if I am wrong, that there is a group in Germany which has packaged this micro-brewery/pub concept for sale and one would have to be concerned about whether one should allow chains of these things as well. My own view is that what is happening in British Columbia is healthy, but I would have to understand the pros and cons of allowing franchises and chains of these, perhaps even owned by some of the larger breweries.

Mr. Cassidy: If the initial outlet was to be limited in terms of gallonage or square footage of the pub or that kind of thing, with a number of outlets, I think that should be examined.

Hon. Mr. Elgie: That is the sort of thing, the side issues that have to be looked at at the same time.

Mr. MacQuarrie: Like home brew for sale?

Mr. Breithaupt: On the premises.

Hon. Mr. Elgie: On the premises.

6:10 p.m.

Mr. Cassidy: May I raise a different issue which relates to the Liquor Control Board of Ontario? It does not have a formal vote but is probably appropriate here. I gave figures to indicate that the drive towards sexual equality, in terms of hiring by the LCBO, is simply sputtering. I estimated that at the present rate it would take 70 years to get there.

The Provincial Auditor's report indicates that the hiring of temporary employees is a very haphazard process, that most of the permanent employees are drawn from the ranks of the temporary employees and that the hiring of the permanent employees is a very haphazard process.

However, for some reason that is beyond me, the LCBO is required to get order in council approval for people it employs, which is surely

anachronistic and archaic and a power which should be given to them.

Hon. Mr. Elgie: That is the way it is, anyway.

Mr. Cassidy: Finally, only three per cent of the women in the stores are management, compared to 36 per cent of the men, which is a sign that after seven years you are just not getting anywhere.

Hon. Mr. Elgie: I do not think that is—

Mr. Chairman: Excuse me, I know this is an important conversation, but the time has expired and we should now call the votes.

Mr. Cassidy: Could we could just have the minister's comments on that point before calling the votes?

Hon. Mr. Elgie: I think it is an interesting comment that, of the last nine appointments made, three of them were to women as full-time employees.

Mr. Cassidy: Three out of nine? That is not a good enough ratio.

Hon. Mr. Elgie: That is a third. That is in line with the proportion of women who are applying for temporary jobs with the board. The number of temporary employees who are female has increased dramatically. I think we will see that reflected in the full-time employment.

Mr. Cassidy: I do not think you are doing

much. I think affirmative action has just literally not worked with the liquor control board.

Vote 1507 agreed to.

Vote 1508 agreed to.

Mr. Chairman: Thank you. This concludes consideration of the estimates of the Ministry of Consumer and Commercial Relations.

We have a little bit of committee business. One of the things I would like to ask for is the authorization of the committee to arrange for a simultaneous translation for a half day, if necessary, during the hearings on the Courts of Justice Act.

Mr. Breithaupt: How are you planning to advise the persons who may attend on just which day that would be? Does that simply depend upon the need of anyone who does choose to attend? It is not as though we will be sitting here for a certain half day. It will just be a matter of being available if needed.

Mr. Chairman: Yes.

Mr. Breithaupt: Where numbers warrant, shall we say?

Mr. Chairman: Only if requested, right.

I would like to thank the minister and his staff for taking part in the estimates. Certainly, to all the members, the minister's staff and everyone here in this room, Merry Christmas, and we will see you all in the new year.

The committee adjourned at 6:13 p.m.

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 Elgie, Hon. R. G., Minister of Consumer and Commercial Relations (York East PC)
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 Kolyn, A.; Chairman (Lakeshore PC)
 MacQuarrie, R. W. (Carleton East PC)
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